

House Calendar

Friday, February 28, 2020

53rd DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Third Reading

H. 580

An act relating to establishing a classification system for criminal offenses

H. 740

An act relating to changes to the Nuclear Decommissioning Citizens Advisory Panel

H. 926

An act relating to changes to Act 250

Amendment to be offered by Rep. Lefebvre of Newark to H. 926

Representative Lefebvre of Newark moves that the bill be amended in Sec. 3, 10 V.S.A. chapter 151, by inserting the following:

§ 6094. ALLOCATION OF COSTS; DEPARTMENT OF FISH AND

WILDLIFE

(a) Notwithstanding any other provision of law, the Department of Fish and Wildlife shall have the authority to bill the applicant for the costs of participating in any major permit application before a District Commission, including the costs of employee application review, submissions, comments, and testimony before a District Commission related to impacts on wildlife, necessary wildlife habitat, or connecting habitat. The Department may recover those costs from the applicant after notice to the applicant, including an estimate of the costs of the personnel or services.

(b) From time to time, the Department charging an applicant for personnel of services under this section shall provide the applicant with detailed statements showing the amount of money expended or contracted for in the work of such personnel and services. All funds collected from applicants under this section shall be paid directly to the Department.

(c) An applicant to which costs are allocated under this section may petition the Natural Resources Board to review the costs allocated. The Natural Resources Board shall conduct a hearing to determine the reasonableness of the costs. The Board shall consider the size and complexity of the project and may revise the cost allocations if determined unreasonable.

Amendment to be offered by Reps. Harrison of Chittenden, Brownell of Pownal, Gannon of Wilmington and Sibia of Dover to H. 926

Reps. Harrison of Chittenden, Brownell of Pownal, Gannon of Wilmington, and Sibia of Dover move that the bill be amended in Sec. 3, 10 V.S.A. § 6001(3)(A)(vi), by striking out “~~2,500~~ 2,000” and inserting in lieu thereof “2,500”

H. 933

An act relating to technical corrections to municipal charters

H. 934

An act relating to renter rebate reform

Favorable with Amendment

H. 635

An act relating to regulation of long-term care facilities

Rep. Rosenquist of Georgia, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

As used in this chapter:

* * *

(12) “Insolvent” means:

(A) having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) being unable to pay debts as they become due; or

(C) being insolvent within the meaning of federal bankruptcy law.

Sec. 2. 33 V.S.A. § 7110(b) is amended to read:

(b) The licensing agency may take immediate enforcement action when necessary to eliminate a condition ~~which~~ that can reasonably be expected to cause death or serious physical or mental harm to residents or staff before it can be eliminated through the provisions of section 7111 of this title. A licensing agency taking such action shall explain that action and the reasons for it in the notice of violation.

Sec. 3. 33 V.S.A. § 7206 is amended to read:

§ 7206. APPOINTMENT OF RECEIVER; HEARING AND ORDER

(a) After the hearing on the merits, the ~~Court~~ court may appoint a receiver from the list provided by the licensing agency if it finds that one or more of the grounds set forth in section 7202 of this chapter is satisfied, and that the person is qualified to perform the duties of a receiver as provided for in section 7205 of this chapter. The court's determination of whether one or more of the grounds set forth in section 7202 of this chapter is satisfied shall be based on the condition of the facility at the time the complaint requesting the appointment of a receiver was filed.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(**Committee Vote: 11-0-0**)

H. 741

An act relating to criminal record checks on contractors working in State-owned or -leased facilities

Rep. Taylor of Colchester, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2056e is redesignated to read:

§ 2056e. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;
SECURITY PERSONNEL

Sec. 2. 20 V.S.A. § 2056i is added to read:

§ 2056i. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE
DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;
PRIVATE CONTRACTORS

(a) Definitions. As used in this section:

(1) "Criminal record" means the record of:

(A) convictions in Vermont; or

(B) convictions in other jurisdictions recorded in other state repositories or by the Federal Bureau of Investigation (FBI).

(2) “Private contractor” means any individual who is performing specific services or functions for the Department of Buildings and General Services on State-owned or -leased property pursuant to a contract with the State or a subcontract with a person who has contracted with the State and includes an individual who is employed by a person that is performing specific services or functions for the Department of Buildings and General Services on State-owned or -leased property pursuant to a contract with the State or a subcontract with a person who has contracted with the State.

(b) Authority. The Department of Buildings and General Services may obtain from the Vermont Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a record from the Federal Bureau of Investigation for any person who is or will be working in a private contractor position and any applicant for a private contractor position who has given written authorization, on a release form prescribed by the Center, pursuant to the provisions of this subchapter and the user’s agreement filed by the Commissioner of Buildings and General Services with the Center. The user’s agreement shall require the Department to comply with all federal and State statutes, rules, regulations, and policies regulating the release of criminal history records and the protection of individual privacy. The user’s agreement shall be signed and kept current by the Commissioner. Release of interstate and Federal Bureau of Investigation criminal history records is subject to the rules and regulations of the Federal Bureau of Investigation’s National Crime Information Center.

(c) Request process. A request made under this section shall be accompanied by a set of the person’s fingerprints.

(d) Notice of records. Upon completion of a criminal record check, the Vermont Crime Information Center shall send to the Commissioner a notice that no record exists or, if a record exists, a copy of any criminal record.

(e) Process for sending information. The Commissioner may inform the contractor in writing of the approved level of access granted but shall not reveal the content of the record to the contractor.

(f) Notice of rights. Information sent to a person by the Commissioner of Buildings and General Services under subsection (e) of this section shall be accompanied by a written notice of the person’s rights under subsection (g) of this section, a description of the policy regarding maintenance and destruction of records, and the person’s right to request that the notice of no record or record be maintained for purposes of using it to comply with future criminal record check requests pursuant to subsection (i) of this section.

(g) Appeal. Any person subject to a criminal record check pursuant to this

section may challenge the accuracy of the record by appealing to the Vermont Crime Information Center pursuant to rules adopted by the Commissioner of Public Safety.

(h) Confidentiality. Criminal records and criminal record information received under this section are designated confidential unless, under State or federal law or regulation, the record or information may be disclosed to specifically designated persons.

(i) Recheck of records request. The Commissioner may request a name and date of birth or fingerprint-supported recheck of the criminal record for any person who is working in a private contractor position every three years or as otherwise required by law.

(j) Maintenance of records. The Commissioner shall maintain the record or information pursuant to the user agreement for maintenance of records. At the end of the time required by the user agreement for maintenance of the information, the Commissioner shall destroy the information in accordance with the user agreement.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 7-0-1)

Action Postponed Until March 10, 2020

Senate Proposal of Amendment

H. 550

An act relating to unclaimed property

(For text see House Journal February 23, 2020; page 220)

NOTICE CALENDAR

Favorable with Amendment

H. 215

An act relating to the Office of the Child Advocate

Rep. Redmond of Essex, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ASSESSMENT AND RECOMMENDATION; OFFICE OF THE
CHILD ADVOCATE

(a) The Joint Legislative Child Protection Oversight Committee established pursuant to 2015 Acts and Resolves No. 60, Sec. 23, as amended by 2018 Acts and Resolves No. 207, Sec. 2, shall assess the need for an Office of the Child Advocate in Vermont and explore models adopted by other states to achieve the same. In conducting its assessment and formulating a recommendation, the Committee shall specifically consider:

(1) the scope of an Office of the Child Advocate, including whether the Office would provide systems-wide oversight or review individual complaints, or both;

(2) the degree of independence with which the Office would operate and in which State agency it would be embedded, if any;

(3) the relationship of the Office to the Department for Children and Families' Family Services Division, other government entities with existing child protection responsibilities, and current complaint processes;

(4) the composition of the staff and reporting structure within the Office;

(5) the manner of appointing and confirming a Child Advocate and the composition of any advisory board to the Child Advocate; and

(6) access to confidential data held by the Department for Children and Families and the ability of the Child Advocate to speak directly to a child without the permission of a parent or guardian.

(b) In conducting its assessment, the Committee shall consult with:

(1) the Department for Children and Families;

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

(3) a representative of Vermont Kin as Parents;

(4) at least one person who was previously in foster care in Vermont;

(5) one or more parents of origin who have experienced Vermont's child protection system and had their parental rights terminated;

(6) one or more parents of origin who have experienced Vermont's child protection system and have been reunited with their child or children;

(7) a representative of Vermont's Judicial Branch;

(8) a guardian ad litem;

(9) the Defender General or designee;

(10) a representative of the Vermont Citizen’s Advisory Board; and

(11) any other person or entity from whom the Committee chooses to receive testimony.

(c) The Committee shall provide an opportunity for the public to provide feedback to the Committee on the creation and structure of an Office of the Child Advocate in Vermont.

(d) On or before December 1, 2020, the Committee shall submit any proposed draft legislation to the General Assembly that shall reflect the findings and recommendations of the Committee’s assessment conducted pursuant to this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 11-0-0)

H. 438

An act relating to the Board of Medical Practice and the licensure of physicians and podiatrists

Rep. Durfee of Shaftsbury, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Board of Medical Practice and Physician Licensure * * *

Sec. 1. 26 V.S.A. chapter 23 is amended to read:

CHAPTER 23. MEDICINE

Subchapter 1. General Provisions

§ 1311. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

(1) “Practice of medicine” means:

(A) using the designation “Doctor,” “Doctor of Medicine,” “Physician,” “Dr.,” “M.D.,” or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license in Vermont;

(B) advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine in the jurisdiction;

(C) offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other person;

(D) offering or undertaking to prevent, diagnose, correct, or treat in any manner or by any means, methods, or devices any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any person, including the management of all aspects of pregnancy, labor and delivery, and parturition postpartum care;

(E) offering or undertaking to perform any surgical operation upon any person;

(F) rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within the State by a physician located outside the State as a result of the transmission of individual patient data by electronic or other means from within the State to the physician or his or her agent; or

(G) rendering a determination of medical necessity or a decision affecting the diagnosis or treatment of a patient.

(2) “Board” means the ~~State~~ Board of Medical Practice established under section 1351 of this title.

(3) “License” means license to practice medicine and surgery in the State as defined in subchapter 3 of this chapter. “Licensee” includes any individual licensed or certified by the Board.

(4) “Medical director” means, for purposes of this chapter, a physician who is Board-certified or Board-eligible in his or her field of specialty, as determined by the American Board of Medical Specialties (ABMS), and who is charged by a health maintenance organization with responsibility for overseeing all clinical activities of the plan in this State, or his or her designee.

(5) “Health maintenance organization₂,” as used in this section, ~~shall have~~ has the same meaning as defined in 18 V.S.A. § 9402(9).

(6) “Members” means members of the Board.

(7) “Secretary” means the ~~Secretary~~ secretary of the Board.

* * *

§ 1313. EXEMPTIONS

(a) The provisions of this chapter shall not apply to the following:

(1) a A health care professional licensed or certified by the Office of Professional Regulation when that person is practicing within the scope of his

or her profession;

(2) a A member of the U.S. Armed Forces or National Guard carrying out official military duties, including a National Guard member in state active duty status, or to any person giving aid, assistance, or relief in emergency or accident cases, pending the arrival of a regularly licensed physician;

(3) a A nonresident physician coming into this State to consult or using telecommunications to consult with a duly licensed practitioner herein;

(4) a A duly licensed physician in another state, in Canada, or in another nation as approved by the Board, who is visiting a medical school or a teaching hospital in this State to receive or conduct medical instruction for a period not to exceed three months, provided the practice is limited to that instruction and is under the supervision of a physician licensed by the Board;
~~or.~~

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

(6) A student who is enrolled in an accredited educational program that leads to the issuance of a degree that would satisfy the educational requirement for a profession licensed or certified by the Board, who is engaged in an organized clinical training program, and who engages in acts constituting the practice of medicine while under the supervision of a Vermont-licensed or Vermont-certified health care professional who is qualified to supervise any acts by the student that constitute the practice of medicine. This exemption does not apply to postgraduate trainees who are required to obtain a training license.

* * *

§ 1317. UNPROFESSIONAL CONDUCT TO BE REPORTED TO BOARD

(a) Required reporters. Any hospital, clinic, community mental health center, or other health care institution in which a licensee performs professional services shall report to the Board, along with supporting information and evidence, any reportable disciplinary action taken by it or its staff that ~~significantly limits the licensee's privilege to practice or leads to suspension or expulsion from the institution, a nonrenewal of medical staff membership, or the restrictions of privileges at a hospital taken in lieu of, or in settlement of, a pending disciplinary case related to unprofessional conduct as~~

~~defined in sections 1354 and 1398 of this title. The Commissioner of Health shall forward any such information or evidence he or she receives immediately to the Board. The report shall be made within 10 days of the date such disciplinary action was taken, and, in the case of disciplinary action taken against a licensee based on the provision of mental health services, a copy of the report shall also be sent to the Commissioner of Mental Health and the Commissioner of Disabilities, Aging, and Independent Living. This section shall not apply to cases of resignation or separation from service for reasons unrelated to disciplinary action.~~

~~(b) Within 30 days of any judgment or settlements involving a claim of professional negligence by a licensee, any insurer of the licensee shall report the information to the Commissioner of Health and, to the extent the claim relates to the provision of mental health services, to the Commissioner of Mental Health.~~

Definition of reportable disciplinary action. A reportable disciplinary action is an action based on one or more of the following:

(1) Acts or omissions of a licensee that relate to the licensee's fitness or competence to practice medicine under the license held.

(2) Acts or omissions of the licensee that constitute a violation of a law or rule that relates in any way to the practice of medicine.

(3) Acts or omissions of the licensee that occur in the course of practice and result in one or more of the following:

(A) Resignation, leave of absence, termination, or nonrenewal of an employment relationship or contract. This includes a licensee's own initiation of such action following notification to the licensee by the reporter that the reporter or an affiliated entity is conducting an investigation or inquiry regarding an event that, assuming the accuracy of the information or allegation, is likely to result in reportable disciplinary action. The reporter or affiliated entity shall complete the investigation or inquiry even if the licensee initiates a resignation, leave of absence, termination, or nonrenewal, and shall make a report to the Board if the investigation results in a finding of a reportable disciplinary action. Resignations and leaves of absence that are entirely voluntary by the licensee, and terminations and nonrenewals of employment or contract by a required reporter that are not related to acts or omissions of the licensee, are not reportable disciplinary actions.

(B) Revocation, suspension, restriction, relinquishment, or nonrenewal of a right or privilege. This includes a licensee's own initiation of such action following notification to the licensee by the reporter that the

reporter or an affiliated entity is conducting an investigation or inquiry regarding an event that, assuming the accuracy of the information or allegation, is likely to result in reportable disciplinary action. The reporter or affiliated entity shall complete the investigation or inquiry even if the licensee initiates a resignation, leave of absence, termination, or nonrenewal, and shall make a report to the Board if the investigation results in a finding of a reportable disciplinary action. Relinquishments of privileges that are entirely voluntary by the licensee, and revocations, nonrenewals, or other limitations on privileges by a required reporter that are not related to acts or omissions of the licensee, are not reportable disciplinary actions.

(C) Written discipline that constitutes a censure, reprimand, or admonition, if it is the second or subsequent censure, reprimand, or admonition within a 12-month period for the same or related acts or omissions that previously resulted in written censure, reprimand, or admonition. The same or related acts or omissions includes similar behavior or behavior involving the same parties, or both. Oral censure, oral reprimand, and oral admonition are not considered reportable disciplinary actions, and notation of an oral censure, oral reprimand, or oral admonition in a personnel or supervisor's file does not transform the action from oral to written.

(D) Fine or any other form of monetary penalty imposed as a form of discipline.

(E) Required education, remedial counseling, or monitoring that is imposed as a result of a completed, contested disciplinary process. This includes recommendation or referral for services from the Vermont Practitioner Recovery Network established pursuant to section 1401a of this chapter, or from an employer wellness program or similar program, as a result of a completed, contested disciplinary process.

(c) Timing of reports. A required report of reportable disciplinary action under subsection (b) of this section shall be made within 30 days following the date on which the disciplinary action was taken or upon completion of an investigation or inquiry pursuant to subdivision (b)(3)(A) or (B) of this section.

(d) Mental health services. If reportable disciplinary action is reported to the Board based on a licensee's provision of mental health services, the Commissioner of Health shall forward the report to the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living. Except as provided in section 1368 of this title, information provided to the Department of Health, the Department of Mental Health, or the Department of Disabilities, Aging, and Independent Living under this section shall be confidential unless

the Department of Health decides to treat the report as a complaint₂; in which case, the provisions of section 1318 of this title shall apply.

~~(d)~~(e) Limitation on liability. A person who acts in good faith in ~~accord~~ accordance with the provisions of this section shall not be liable for damages in any civil action based on the fact that a report was made.

~~(e)~~(f) Violations. A ~~person~~ reporter who violates this section shall be subject to a civil penalty of not more than \$5,000.00, provided that a reporter who employs or grants privileges to five or more Board licensees and who violates this section shall be subject to a civil penalty of not more than \$10,000.00.

* * *

Subchapter 2. Board of Medical Practice

§ 1351. BOARD OF MEDICAL PRACTICE

(a) ~~A State~~ The Board of Medical Practice is created. The Board shall be composed of 17 members, nine of whom shall be licensed physicians, one of whom shall be a physician assistant licensed pursuant to chapter 31 of this title, one of whom shall be a podiatrist licensed pursuant to chapter 7 of this title, and six of whom shall be persons not associated with the medical field. The Governor, with the advice and consent of the Senate, shall appoint the members of the Board. Appointments shall be for a term of five years, except that a vacancy occurring during a term shall be filled by an appointment by the Governor for the unexpired term. No member shall be appointed to more than two consecutive full terms, but a member appointed for less than a full term₂ (originally or to fill a vacancy)₂ may serve two full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of one or more years. Any member of the Board may be removed by the Governor at any time. The Board shall elect from its members a chair, vice chair, and secretary who shall serve for one year and until their successors are appointed and qualified. The Board shall meet upon the call of the Chair or the Commissioner of Health, or at such other times and places as the Board may determine. Except as otherwise provided in ~~section 1360~~ sections 1372, 1373, and 1374 of this title, nine members of the Board shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the members present and voting shall be required to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize any decision or order of the Board.

* * *

§ 1353. POWERS AND DUTIES OF THE BOARD

The Board shall have the following powers and duties to:

(1) License and certify health professionals pursuant to this title.

(2) Investigate all complaints and charges of unprofessional conduct against any holder of a license or certificate, or any medical practitioner practicing pursuant to section 1313 of this title, and to hold hearings to determine whether such charges are substantiated or unsubstantiated. The Board may employ or contract with one or more hearing officers to schedule, oversee prehearing processes, preside over hearings, and assist with the preparation of reports and decisions.

(3) Issue subpoenas and administer oaths in connection with any investigations, hearings, or disciplinary proceedings held under this chapter. Any individual or entity served with a subpoena issued by the Board shall comply notwithstanding the patient's privilege established in 12 V.S.A. § 1612.

(4) Take or cause depositions to be taken as needed in any investigation, hearing, or proceeding.

* * *

~~(8) Obtain, at the Board's discretion, from the Vermont Crime Information Center a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation, for any applicant, licensee, or holder of certification. The Board may also inquire of Interpol for any information on criminal history records of an applicant, licensee, or holder of certification. Each applicant, licensee, or holder of certification shall consent to the release of criminal history records to the Board on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c. When the Board obtains a criminal history record, it shall promptly provide a copy of the record to the applicant, licensee, or holder of certification and inform him or her of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont Crime Information Center. When fingerprinting is required pursuant to this subdivision, the applicant, licensee, or holder of certification shall bear all costs associated with fingerprinting. The Board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy.~~

(A) Inquire into the criminal history backgrounds of applicants for licensure and for biennial license renewal for all professionals licensed or certified by the Board. In obtaining these background checks:

(i) the Board may inquire directly of the Vermont Crime

Information Center, the Federal Bureau of Investigation, the National Crime Information Center, and other holders of official criminal record information, and may arrange for these inquiries to be made by a commercial service;

(ii) the Board may require the background checks to be fingerprint-supported, and fingerprints obtained for that purpose may be retained on file by the Board, by holders of official criminal record information, or by a service acting on behalf of the Board, and used to notify the Board of information added to the criminal background history of Board licensees in the future; and

(iii) the Board shall notify applicants subject to background checks that the check is required, that fingerprints will be retained on file, and that criminal convictions are not an absolute bar to licensure, and shall provide applicants and licensees with such other information as may be required by federal law or regulation.

(B) An applicant or licensee shall bear any cost of obtaining a required criminal history background check.

(C) The Board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy.

(D) No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter. As used in this subdivision, "criminal history record" is as defined has the same meaning as in 20 V.S.A. § 2056a.

* * *

§ 1354. UNPROFESSIONAL CONDUCT

(a) The Board shall find that any one of the following, or any combination of the following, whether the conduct at issue was committed within or outside the State, constitutes unprofessional conduct:

* * *

(23) revocation of a license to practice medicine or surgery ~~in~~, or other disciplinary sanction, by another jurisdiction on one or more of the grounds specified in this section;

* * *

(27) failure to comply with provisions of federal ~~or State~~ statutes or regulations, or the statutes or rules of this or any other state, governing the practice of medicine or surgery;

* * *

§ 1355. COMPLAINTS; HEARING COMMITTEE

~~(a) Any person, firm, corporation, or public officer may submit a written complaint to the Board alleging any person practicing medicine in the State committed unprofessional conduct, specifying the grounds therefor. The Board shall initiate an investigation of the physician when a complaint is received or may act on its own initiative without having received a complaint. The Chair shall designate four members, including one public member, to serve as a committee to hear or investigate and report upon such charges.~~

~~(b) The Chair may designate a hearing committee constituting less than a quorum of the Board, to conduct hearings that would otherwise be heard by the Board. A hearing committee shall consist of at least one physician member of the Board and one public member of the Board. No member of the hearing committee shall have been a member of the investigative committee that reviewed the matter at the investigative stage. When the Board is unable to assign one or more members to investigate a complaint or serve on a hearing committee by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner may, at the request of the Board, appoint ad hoc members to serve on the investigation or the hearing for that matter only. When a hearing is conducted by a hearing committee, the committee shall report its findings and conclusions to the Board, within 60 days of the conclusion of the hearing unless the Board grants an extension. The Board may take additional evidence and may accept, reject, or modify the findings and conclusions of the Committee. Judgment on the findings shall be rendered by the Board. Nothing herein is intended to limit the discretion of the Board to determine whether a matter will proceed to hearing before a hearing committee under this subsection or by a quorum of the Board.~~

~~(c) A person or organization shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Board about alleged incompetent, unprofessional, or unlawful conduct of a licensee.~~

~~(d) The hearing committee may close portions of hearings to the public if the hearing committee deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential by State or federal law.~~

~~(e) In any proceeding under this section that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence nor evidence of the~~

~~reputation of the victim's sexual conduct shall be admitted. At the request of the victim, the hearing committee may close portions of hearings to the public if the Board deems it appropriate in order to protect the identity of the victim and the confidentiality of his or her medical records. [Repealed.]~~

§ 1356. SPECIFICATION OF CHARGES

~~If the Board or committee determines that a hearing is warranted, the Secretary shall prepare a specification of the charge or charges of unprofessional conduct made against a medical practitioner, a copy of which shall be served upon the person complained against, together with a notice of the hearing, as provided in section 1357 of this title. [Repealed.]~~

§ 1357. TIME AND NOTICE OF HEARING

~~The time of hearing shall be fixed by the Secretary as soon as convenient, but not earlier than 30 days after service of the charge upon the person complained against. The Secretary shall issue a notice of hearing of the charges, which notice shall specify the time and place of hearing and shall notify the person complained against that he or she may file with the Secretary a written response within 20 days of the date of service. The notice shall also notify the person complained against that a stenographic record of the proceeding will be kept, that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence in his or her own behalf, to cross-examine witnesses testifying against him or her and to examine such documentary evidence as may be produced against him or her. [Repealed.]~~

§ 1358. SUBPOENAS; CONTEMPT

~~Subpoenas may be issued by the Board to compel the attendance of witnesses at any investigation or hearing. The Board shall issue subpoenas at the request and on the behalf of the person complained against. [Repealed.]~~

§ 1359. REPORT OF HEARING

~~Within 30 days after holding a hearing under the provisions of section 1357 of this title, the committee shall make a written report of its findings of fact and its recommendations, and the same shall be forthwith transmitted to the Secretary, with a transcript of the evidence. [Repealed.]~~

§ 1360. HEARING BEFORE BOARD

~~(a) If the Board deems it necessary, the Board may, after further notice to the person complained against, take testimony at a hearing before the Board, conducted as provided for hearings before the hearing committee. In any event, whether the Board makes its determination on the findings of the~~

~~hearing committee, on the findings of the committee as supplemented by a second hearing before the Board, or on its own findings, the Board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it. Five members of the Board, including at least one public member, shall constitute a quorum for purposes of this section.~~

~~(b) Members of the committee designated under section 1355 of this title to investigate the complaint shall not sit with the Board when it conducts hearings under this section.~~

~~(c) In any proceeding under this section that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence of nor evidence of the reputation of the victim's sexual conduct shall be admitted. At the request of the victim, the hearing committee may close portions of hearings to the public if the Board deems it appropriate to close portions of the hearing in order to protect the identity of the victim and the confidentiality of his or her medical records.~~

~~(d) The Board may close portions of hearings to the public if the Board deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential by State or federal law. [Repealed.]~~

§ 1361. ~~DECISION AND ORDER~~

~~(a) If a majority of the members of the Board vote in favor of finding the person complained against guilty of unprofessional conduct as specified in the charges, or any of them, the Board shall prepare written findings of fact, conclusions, and order, a copy of which shall be served upon the person complained against.~~

~~(b) In such order, the Board may reprimand the person complained against, as it deems appropriate; condition, limit, suspend, or revoke the license, certificate, or practice of the person complained against; or take such other action relating to discipline or practice as the Board determines is proper, including imposing an administrative penalty not to exceed \$1,000.00 for each act that constitutes an unprofessional conduct violation. Any money received from the imposition of an administrative penalty imposed under this subsection shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees. The Commissioner shall detail in the annual report receipts and expenses from money received under this subsection.~~

~~(c) If the person complained against is found not guilty, or the proceedings against him or her are dismissed, the Board shall forthwith order a dismissal of the charges and the exoneration of the person complained against.~~

~~(d) Any order issued under this section shall be in full force and effect until further order of the Board or a court of competent jurisdiction. [Repealed.]~~

* * *

§ 1365. NOTICE OF CONVICTION OF CRIME; INTERIM SUSPENSION OF LICENSE

~~(a) The Board shall treat a certified copy of the judgment notice of conviction of a crime for which a licensee may be disciplined under section 1354 of this title as an unprofessional conduct complaint. The record A certified copy of the judgment of conviction shall be conclusive evidence of the fact that the conviction occurred. ~~If a person licensed under this chapter is convicted of a crime by a court in this State, the clerk of the court shall within 10 days of such conviction transmit a certified copy of the judgment of conviction to the Board.~~~~

* * *

§ 1366. OUT-OF-STATE DISCIPLINE; INTERIM SUSPENSION OF LICENSE

(a) The Board shall treat a certified copy of an order revoking or suspending the license of a person licensed to practice medicine or surgery in another jurisdiction on grounds for which a licensee may be disciplined under subdivision 1354(a)(23) of this title as an unprofessional conduct complaint. The A certified copy of the order of revocation or suspension shall be conclusive evidence of the fact that the revocation or suspension occurred.

(b) The Board shall treat ~~a certified copy as an unprofessional conduct complaint any notice~~ of a statement of a licensing entity in another jurisdiction that verifies that a person licensed to practice medicine or surgery in that jurisdiction failed to renew, surrendered, or otherwise terminated his or her license during, or prior to initiation of, proceedings to revoke or suspend his or her license ~~as an unprofessional conduct complaint~~. The A certified copy of the statement shall be conclusive evidence of the fact that such termination occurred.

(c) Upon receipt of the certified copy of an order or statement referred to in ~~subsections~~ subsection (a) or (b) of this section, the Board shall follow the procedures for interim suspension set forth in subsection 1365(b) of this ~~title~~ chapter.

(d) The sole issue to be determined at the disciplinary hearing on a complaint filed under subsection (a) of this section shall be the nature of the disciplinary action to be taken by the Board.

* * *

§ 1370. COMPLAINTS; INVESTIGATIVE COMMITTEE

(a)(1) Any individual, organization, or public officer may submit a written complaint to the Board alleging that any individual practicing medicine in the State committed unprofessional conduct or that an individual practiced without being licensed in violation of section 1314 of this chapter. The complaint shall specify the grounds on which the allegations of unprofessional conduct are based.

(2) A person or organization shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Board about alleged incompetent, unprofessional, or unlawful conduct of a licensee.

(b)(1) The Board shall initiate an investigation of the individual complained against whenever a complaint is received. The Board may also act on its own initiative without having received a complaint.

(2) The Executive Director shall designate three or more members, including at least one public member, to serve as an investigative committee to investigate and report to the Board its findings regarding the complaint and whether an evidentiary hearing is warranted. If there is an insufficient number of members to investigate a complaint by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner of Health may, at the request of the Board, appoint ad hoc members to serve on the investigative committee for that matter only.

(3) If the investigative committee determines that an evidentiary hearing is warranted, the Executive Director shall prepare a specification of the charge or charges of unprofessional conduct made against the individual licensed by the Board, a copy of which shall be served upon subject of the charge or charges, together with the notice of hearing set forth in subsection 1372(b) of this chapter.

§ 1371. ACCESS TO DOCUMENTS; DISCOVERY

(a)(1) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to inspect and copy all information in the possession of the Department of Health pertaining to the licensee, except:

(A) investigatory files that have not resulted in charges of unprofessional conduct;

(B) materials that constitute attorney work product; and

(C) any other document or information that the Board has an obligation to protect from disclosure.

(2) The Executive Director shall notify the licensee of the right to inspect and copy information as provided in subsection 1372(b) of this chapter.

(b) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to produce fact witnesses, expert witnesses, and evidence on the licensee's own behalf, to cross-examine witnesses testifying against the licensee, and to engage in other methods of discovery as set forth by order of the Board or its hearing officer.

(c) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to request to depose witnesses by motion to the Board or its hearing officer. Any deposition so ordered shall be subject to:

(1) the provisions of section 1376 of this chapter, relating to confidentiality and the inadmissibility of certain evidence;

(2) limitations or conditions necessary to protect witnesses who are minors or who are adults subject to a guardianship or conservatorship; and

(3) such other reasonable limitations as the Board or its hearing officer may provide in the interests of justice and consistent with the provisions of 3 V.S.A. § 810, relating to rules of evidence and official notice in contested cases.

§ 1372. HEARING PANEL

(a) Composition of hearing panel.

(1) The Executive Director may designate a hearing panel constituting less than a quorum of the Board to conduct hearings that would otherwise be heard by the full Board. A hearing panel shall consist of at least three members, including at least one physician member of the Board and at least one public member of the Board. No member of the hearing panel shall have been a member of the investigative committee that reviewed the matter at the investigative stage. A party may move to disqualify a member of a hearing panel due to a conflict of interest.

(2) If there is an insufficient number of members to serve on a hearing panel by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner of Health may, at the request of the Board, appoint ad hoc members to serve on the hearing panel for that matter only.

(b) Time and notice of hearing.

(1) The Executive Director or a hearing officer shall set a time for the evidentiary hearing as soon as convenient following the determination by the investigative committee that an evidentiary hearing is warranted, subject to the discovery needs of the parties as established in any prehearing or discovery conference or in any orders regulating discovery and depositions, or both, but no earlier than 30 days after service of the charge upon the individual complained against. A party may file motions to extend the time of the hearing for good cause.

(2) The Executive Director shall issue a notice of the evidentiary hearing on the charges, which notice shall specify the time and place of the hearing and shall notify the individual complained against that he or she may file with the Executive Director a written response within 20 days of the date of service. The notice shall also notify the individual complained against that a record of the proceeding will be kept, that he or she will have the right to inspect and copy information as set forth in section 1371 of this chapter, and that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence on his or her own behalf, to cross-examine witnesses testifying against him or her, and to examine such documentary evidence as may be produced against him or her.

(c) Hearing panel report. Within 60 days after holding an evidentiary hearing under this section, unless the Board grants an extension, the hearing panel shall provide a written report of its findings of fact and its recommendations to the full Board, with a transcript of the evidence.

§ 1373. HEARING BEFORE THE BOARD

(a) If the Board deems it necessary, following receipt of the report of the hearing panel pursuant to section 1372 of this chapter and after further notice to the individual complained against, the Board may take additional evidence at a hearing before the Board, which shall be conducted according to the same process as provided for the hearing panel.

(b)(1) Five members of the Board, including at least one physician member and at least one public member, shall constitute a quorum for purposes of this section.

(2) Members of the investigative committee designated pursuant to

section 1370 of this chapter shall not sit with the Board when it conducts hearings under this section.

§ 1374. DECISION AND ORDER

(a) Regardless of whether the Board makes its determination on the findings of the hearing panel pursuant to section 1372 of this chapter alone, on the findings of the hearing panel as supplemented by a hearing before the Board pursuant to section 1373 of this chapter, or on its own findings, the Board shall render its decision on the merits of the charge or charges on the basis of the evidence in the record before it.

(b)(1) If a majority of the members of the Board present and voting find that the individual complained against committed unprofessional conduct as specified in one or more of the charges, the Board shall prepare written findings of fact, conclusions, and an order, copies of which shall be served upon the individual complained against.

(2)(A) In its order, the Board may do one or more of the following:

(i) reprimand the individual complained against;

(ii) condition, limit, suspend, or revoke the license, certificate, or practice of the individual complained against; or

(iii) take such other action relating to discipline or practice as the Board determines appropriate, including imposing an administrative penalty of not more than \$1,000.00 for each act that constitutes an unprofessional conduct violation.

(B) Any monies received from the imposition of an administrative penalty imposed pursuant to this subdivision (2) shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees. The Commissioner of Health's accounting under section 1351 of this chapter shall detail the receipts of administrative penalties and the purposes for which such monies were used.

(c) If the Board finds the individual complained against not guilty of the charge or charges, or the charges against the individual are dismissed, the Board shall promptly order a dismissal of the charges and issue a statement that the charges were not proved.

(d) Any order issued by the Board under this section shall be in full force and effect until further order of the Board or of a court of competent jurisdiction.

§ 1375. SUBPOENAS; CONTEMPT

(a) The Board may issue subpoenas to compel the attendance of witnesses at any investigation or hearing.

(b) The Board shall issue subpoenas on behalf of the individual complained against at the request of such person.

§ 1376. CONFIDENTIALITY; INADMISSIBILITY OF CERTAIN

EVIDENCE

(a) A hearing panel or the Board, or both, may close portions of a hearing or hearings to the public if the panel or Board deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential under State or federal law.

(b) In any proceeding under section 1372 or 1373 of this chapter that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of a victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence nor evidence of the reputation of a victim's sexual conduct shall be admitted. At the request of a victim, a hearing panel or the Board may close portions of hearings to the public if the panel or Board deems it appropriate in order to protect the identity of a victim and the confidentiality of his or her medical records.

§ 1377. NONDISCIPLINARY FINANCIAL PENALTY

(a) For violations of statutes and Board rules of an administrative nature, the Board may, in its sole discretion, elect to offer a licensee the opportunity to pay a nondisciplinary financial penalty of not more than \$250.00 for each instance of noncompliance. If the licensee accepts the offer and submits the required payment, the matter shall be considered to be closed in lieu of investigating the failure to comply with the rule or statute as unprofessional conduct.

(b) A matter closed by payment of a nondisciplinary financial penalty shall not be considered to be a disciplinary action, and the matter shall remain confidential in the manner of dismissed charges in accordance with section 1318 of this chapter.

(c) The Board shall not be required to offer the option of a nondisciplinary financial penalty in any particular case and may elect to process any matter as a disciplinary action.

Subchapter 3. Licenses

§ 1391. QUALIFICATIONS FOR MEDICAL LICENSURE

~~(a) Upon payment of an examination fee, a person who has attained the age of majority, and is of good moral character, who is a graduate of a legally chartered college or university authorized to confer degrees in medicine and surgery, which is recognized by the Board, shall be entitled to examination. Evidence of good moral character and competence in being able to communicate in reading, writing, and speaking the English language, shall be presented from the chief of service and two other active physician staff members at the hospital where the person was last affiliated. In the discretion of the Board, evidence from different sources may be presented~~

Basic requirements.

(1) An applicant for physician licensure as a medical doctor shall meet each of the requirements set forth in subdivisions (2)(A) through (D) of this subsection. A requirement may be met either by satisfying the requirement on its own terms or by qualifying for an exception established in this chapter or by the Board by rule.

(2) An applicant shall submit evidence of identity acceptable to the Board as set forth by rule and shall establish that the applicant:

(A) is at least 18 years of age;

(B) has completed high school, or the equivalent, and at least two years of undergraduate postsecondary school;

(C) has graduated from a medical school accredited by an organization that is acceptable to the Board, or from a medical school that has been approved by the Board by rule, with a degree of doctor of medicine or an equivalent as may be determined by the Board; and

(D) is of sound moral character and professional competence as evidenced by:

(i) references submitted in accordance with rules adopted by the Board;

(ii) a personal interview, as may be required in the discretion of the Board; and

(iii) the applicant's entire personal history, as established by information about the applicant's academic, licensing examination, employment, professional credentialing, professional certification, professional regulation, civil litigation, and criminal records submitted by the applicant or otherwise obtained by the Board in the application process.

~~(b) If a person successfully completes the examination, he or she may then apply for licensure to practice medicine in the State of Vermont. In addition,~~

each applicant may be interviewed by a Board member

Postgraduate training requirements.

(1) A graduate of a U.S. or Canadian medical school accredited by a body that is acceptable to the Board shall submit evidence of the successful completion of at least two years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board and that meets such other requirements as the Board may establish by rule.

(2) A graduate of a Board-approved medical school outside the United States or Canada shall submit evidence of success of completing at least three years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board and that meets such other requirements as the Board may establish by rule.

~~(c) Students who have completed the studies of anatomy, physiology, chemistry, and histology may be examined after presenting a certificate from the secretary of the college or university in which they are pursuing their studies that they have completed the work of the second year. The fee that shall accompany such certificate shall be half of that for the final examination and shall be credited to the student as a part of the whole fee when he or she takes his or her final examination, which examination shall not include the subjects in which such student was found qualified by such previous examination~~

Examination. An applicant shall satisfy the Board's requirements for medical licensing examination as established by the Board by rule. The Board may identify which examinations are accepted, set passing standards, and set limits on time and numbers of attempts for exams. The Board may establish by rule exceptions or alternative means to meet examination requirements.

~~(d) In its discretion, the Board may refuse applicants who are graduates of foreign universities or medical schools unless their credentials have first been passed upon and approved by the educational council for foreign medical graduates~~

ECFMG certificate. A graduate of a medical school outside the United States or Canada shall also submit evidence of certification by the Educational Commission for Foreign Medical Graduates unless the individual qualifies for licensure as a Fifth Pathway applicant, as established by the Board by rule.

~~(e) An applicant for limited temporary license, who shall furnish the Board with satisfactory proof that he or she has attained the age of majority, is of good moral character, is a graduate of a legally chartered medical school of this country or of a foreign country that is recognized by the Board and which~~

~~has power to grant degrees in medicine, that all other eligibility requirements for house officer status have been met, and that he or she has been appointed an intern, resident, fellow, or medical officer in a licensed hospital or in a clinic that is affiliated with a licensed hospital, or in any hospital or institution maintained by the State, or in any clinic or outpatient clinic affiliated with or maintained by the State, may upon the payment of the required fee, be granted a limited temporary license by the Board as a hospital medical officer for a period of up to 54 weeks and such license may be renewed or reissued, upon payment of the fee, for the period of the applicant's postgraduate training, internship, or fellowship program. Such limited temporary license shall entitle the said applicant to practice medicine only in the hospital or other institution designated on his or her certificate of limited temporary license and in clinics or outpatient clinics operated by or affiliated with such designated hospital or institution and only if such applicant is under the direct supervision and control of a licensed physician. Such licensed physician shall be legally responsible and liable for all negligent or wrongful acts or omissions of the limited temporary licensee and shall file with the Board the name and address both of himself or herself and the limited temporary licensee and the name of such hospital or other institution. Such limited temporary license shall be revoked upon the death or legal incompetency of the licensed physician or, upon ten days written notice, by withdrawal of his or her filing by such licensed physician. The limited temporary licensee shall at all times exercise the same standard of care and skill as a licensed physician, practicing in the same specialty, in the State of Vermont. Termination of appointment as intern, resident, fellow, or medical officer of such designated hospital or institution shall operate as a revocation of such limited temporary license. An application for limited temporary license shall not be subject to subsection 1391(d) of this title.~~

Current medical practice. An applicant for licensure shall have actively engaged in the practice of medicine, as defined by section 1311 of this chapter, within three years prior to the date on which the application for licensure becomes complete. In its discretion, the Board may license an applicant who does not meet this practice requirement but who agrees to such conditions as the Board may reasonably require to verify or confirm the applicant's readiness to reenter the practice of medicine.

(f) License by faculty appointment.

(1) The Board may issue a license without examination to a reputable physician who is a resident of a foreign country and who furnishes to the Board satisfactory proof of appointment to the faculty of a medical college in Vermont that is accredited by the Liaison Committee on Medical Education

(LCME). The Board may establish additional conditions and requirements by rule for this type of license.

(2) An applicant for a license pursuant to this subsection shall furnish to the Board satisfactory proof that the applicant is at least 18 years of age, has good moral character, is licensed to practice medicine in the applicant's country of residence, and has been appointed to the faculty of an LCME-accredited medical college located in Vermont. The application shall include detailed information concerning the nature and term of the appointment, the method by which the applicant's performance will be monitored and evaluated, and any other information the Board may require by rule.

(3) A license issued pursuant to this subsection shall be for a period not to exceed the term of the faculty appointment and may, in the Board's discretion, be for a shorter period.

(4) A license issued pursuant to this subsection shall expire automatically upon termination for any reason of the licensee's faculty appointment.

§ 1392. LIMITED TEMPORARY LICENSE FOR POSTGRADUATE

TRAINING

(a) Qualifications for limited training license.

(1) An applicant for a limited training license to practice medicine in a postgraduate training program shall meet each of requirements set forth in subdivisions (2)(A) through (E) of this subsection. A requirement may be met either by satisfying the requirement on its own terms or by qualifying for an exception established in this chapter or by the Board by rule.

(2) An applicant shall submit evidence of identity acceptable to the Board and shall establish that the applicant:

(A) is at least 18 years of age;

(B) has graduated from a medical school accredited by an organization that is acceptable to the Board, or from a medical school that has been approved by the Board by rule;

(C) has been accepted to participate in a postgraduate medical training program accredited by a body approved by the Board by rule;

(D) is of sound moral character and professional competence as evidenced by the applicant's entire personal history, as established by information about the applicant's academic, licensing examination, employment, professional credentialing, professional certification, professional

regulation, civil litigation, and criminal records submitted by the applicant or otherwise obtained by the Board in the application process; and

(E) will be practicing in a program under the supervision of a Vermont-licensed physician who has acknowledged in writing:

(i) the responsibility to ensure that the program operates in accordance with the requirements of the accrediting body; and

(ii) the responsibility to ensure that physicians in training practice only under the close supervision and control of Vermont-licensed physicians.

(b) Terms of limited training license.

(1) A limited training license shall be issued for the period of a “training year,” which shall run from July 1 through June 30. All limited training licenses shall expire at 12:00 midnight on July 1, regardless of when issued, unless the holder leaves the program before that date, in which case the license expires upon the holder leaving the program. The Board may issue a limited training license up to 90 days prior to the beginning of a training year.

(2) A limited training license shall be renewed annually for each licensee who intends to continue to practice in a training program, in accordance with such requirements as the Board may provide by rule.

(3) A limited training license authorizes the holder to practice only within the approved training program and only at sites that are part of the hospital or other facility hosting the training program, along with such other locations as may be formally designated as a training site of the program.

(4) A limited training license shall become invalid 14 days after the supervising physician described in subdivision (a)(2)(E) of this subsection stops supervising the program for any reason, unless documentation of a new supervising physician is filed with the Board prior to the expiration of the 14-day period.

(5) A physician practicing under a limited training license is subject to the provisions of section 1354 of this chapter.

§ 1393. EXAMINATIONS

~~The examinations shall be wholly or partly in writing, in the English language, and shall be of a practical character, sufficiently strict to test the qualifications of the applicant. In its discretion the Board may use multiple choice style examinations provided by the National Board of Medical Examiners or by the Federation of State Medical Boards, or as determined by rule. The examination shall embrace the general subjects of anatomy, physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine,~~

~~surgery, obstetrics, gynecology, materia medica, therapeutics, and legal medicine. The subjects covered by the National Board of Medical Examiners examination shall be considered to have met the requirements of this section. If the applicant passes the examination approved by the Board and meets the other standards for licensure, he or she will qualify for licensure. [Repealed.]~~

§ 1394. REEXAMINATIONS

~~A person failing an examination may be reexamined. The limitation on the number of reexaminations shall be determined by the Board, by rule. The fee for reexamination shall be as required by subsection 1391(a) of this title. [Repealed.]~~

§ 1395. LICENSE WITHOUT EXAMINATION

~~(a) Without examination, the Board may, upon payment of the required fee, issue a license to a reputable physician who personally appears and presents a certified copy of a certificate of registration or a license issued to him or her in a jurisdiction whose requirements for registration are deemed by the Board as equivalent to those of this State, providing that such jurisdiction grants the same reciprocity to a Vermont physician or by the National Board of Medical Examiners.~~

~~(b) Without examination, the Board may issue a license to a reputable physician who is a resident of a foreign country and who shall furnish the Board with satisfactory proof that he or she has been appointed to the faculty of a medical college accredited by the Liaison Committee on Medical Education (LCME) and located within the State of Vermont. An applicant for a license under this subsection shall furnish the Board with satisfactory proof that he or she has attained the age of majority, is of good moral character, is licensed to practice medicine in his or her country of residence, and that he or she has been appointed to the faculty of an LCME accredited medical college located within the State of Vermont. The information submitted to the Board concerning the applicant's faculty appointment shall include detailed information concerning the nature and term of the appointment and the method by which the performance of the applicant will be monitored and evaluated. A license issued under this subsection shall be for a period no longer than the term of the applicant's faculty appointment and may, in the discretion of the Board, be for a shorter period. A license issued under this subsection shall expire automatically upon termination for any reason of the licensee's faculty appointment. [Repealed.]~~

§ 1396. REQUIREMENTS FOR ADMISSION TO PRACTICE

~~(a) The standard of requirements for admission to practice in this State,~~

~~under section 1395 of this title, shall be as follows:~~

~~(1) Academic: Preliminary requirements to be a high school education or its equivalent, such as would admit the student to a recognized university, and a two years' course of study in a college of arts and sciences.~~

~~(2) Medical: Be a graduate of a medical college approved by the Board or approved by an accrediting body satisfactory to the Board.~~

~~(3) Postgraduate training: Have completed at least a one-year hospital program of postgraduate training approved by the Board or approved by an accrediting body satisfactory to the Board.~~

~~(4) Moral: Shall present letters of reference as to moral character and professional competence from the chief of service and two other active physician staff members at the hospital where he or she was last affiliated. In the discretion of the Board, letters from different sources may be presented.~~

~~(5) Language: Shall demonstrate competence in reading, writing, and speaking the English language.~~

~~(6) Examination: The examination in writing shall have embraced 13 subjects of 90 questions, viz.: anatomy, physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine, surgery, obstetrics, gynecology, materia medica, therapeutic, and legal medicine. The grade achieved in each subject must have been at least 75 percent, and a license shall not be recognized when a lower rating was obtained.~~

~~(7) Practice: Shall have practiced medicine within the last three years as defined in section 1311 of this title or shall comply with the requirements for updating knowledge and skills as defined by Board rules.~~

~~(b) In cases it deems appropriate, the Board may waive the requirements of subdivisions (a)(1) and (2) of this section for an applicant who is a graduate of a medical college that is neither approved by the Board nor by an accrediting body satisfactory to the Board. As a condition of granting a waiver, the Board may require that the applicant complete up to three years of postgraduate training satisfactory to the Board. A waiver granted under this section shall be in writing and shall include a statement of the Board reasons for granting the waiver. [Repealed.]~~

~~* * *~~

§ 1398. REFUSAL OR REVOCATION OF LICENSES

~~(a) The Board may refuse to issue the licenses provided for in section 1391 of this title to persons a license or certificate to an applicant who applies to be licensed or certified under this chapter and who, by false or fraudulent~~

representations, ~~have~~ has obtained or sought to obtain practice in ~~their~~ the profession, or by false or fraudulent representations ~~of their profession in practice,~~ have has obtained or sought to obtain money or any other thing of value, or who assume ~~names a name~~ a name other than ~~their~~ the applicant's own for the purpose of misleading others, or for any other immoral, unprofessional, or dishonorable conduct. ~~However, a~~

(b) A license or certificate shall not be suspended, except as provided in section 1365 or 1366 of this chapter; revoked; or refused until the holder or applicant:

(1) is given a hearing before the Board using the same procedures as a hearing on disciplinary matters as set forth in sections 1372 through 1376 of this chapter;

(2) is offered and declines or fails to attend a hearing; or

(3) agrees to the action.

(c) In the event of a revocation, the holder of any license or certificate so revoked shall forthwith promptly relinquish the same license or certificate to the Secretary of the Board.

* * *

Sec. 2. INVESTIGATIVE PROCEDURES

On or before July 1, 2020, the Board of Medical Practice shall post on its website an operations manual, covering topics including procedures for initiating investigations, procedures for notifying licensees of investigations, and standards for investigators' visiting practices. The Board shall inform licensees that the operations manual has been posted and is available for review and comment.

* * * Licensure of Podiatrists * * *

Sec. 3. 26 V.S.A. § 371 is amended to read:

§ 371. ELIGIBILITY

To be eligible for licensure as a podiatrist, an applicant must:

* * *

(4) successfully complete all required steps of the examinations given by the National Board of Podiatry Podiatric Medical Examiners, as set forth by the Board by rule; and

* * *

Sec. 4. 26 V.S.A. § 373(b) is amended to read:

(b) A license that has lapsed for up to 364 days may be reinstated on payment of a renewal fee and a late renewal penalty. A license that has lapsed for one year or longer may be reinstated upon payment of the reinstatement fee and completion of the reinstatement application as set forth by the Board by rule. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if such license remains lapsed for a period of three years or longer, the Board may, after notice and an opportunity for hearing, ~~require reexamination as a condition~~ or other conditions of renewal.

Sec. 5. 26 V.S.A. § 373(b) is amended to read:

(b) A license that has lapsed for up to 364 days may be reinstated on payment of a renewal fee and a late renewal penalty. A license that has lapsed for one year or longer may be reinstated upon payment of the reinstatement fee and completion of the reinstatement application as set forth by the Board by rule. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if such license remains lapsed for a period of three years or longer, the Board may, ~~after notice and an opportunity for hearing, require reexamination or other conditions of renewal~~ require the licensee to update his or her knowledge and skills as defined by Board rules.

* * * Addition of Board of Medical Practice to Description of Professional Licensing Boards Entitled to Inspect Prescription Records * * *

Sec. 6. 18 V.S.A. § 4211 is amended to read:

§ 4211. RECORDS CONFIDENTIAL

Prescriptions, orders, and records required by this chapter, and stocks of regulated drugs, shall be open for inspection only to federal or state officers or their specifically authorized agent whose duty it is to enforce the federal drug laws or this chapter, ~~or to~~ authorized agents of professional licensing boards, as that term is defined under 3 V.S.A. chapter 5, or authorized agents of the Board of Medical Practice. No person having knowledge by virtue of his or her office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution, or proceeding before the Board of Health, Board of Pharmacy, Board of Medical Practice, or another licensing or registration board, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

(a) Sec. 1 (26 V.S.A. chapter 23) shall take effect on July 1, 2020, except that 26 V.S.A. § 1377 (nondisciplinary financial penalty) shall take effect upon

the Board's adoption of a rule setting forth the schedule of statutory and rule violations and penalties.

(b) Secs. 2 (investigative procedures), 3 (26 V.S.A. § 371), 4 (26 V.S.A. § 373(b)), 6 (18 V.S.A. § 4211), and this section shall take effect on July 1, 2020.

(c) Sec. 5 (26 V.S.A. § 373(b)) shall take effect 60 days after the Board's adoption of a maintenance of licensure rule for podiatrists in accordance with 2011 Acts and Resolves No. 61, Sec. 10.

(Committee Vote: 11-0-0)

H. 552

An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund

Rep. Coffey of Guilford, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans for planning and construction of clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

* * *

(b)(1) Each of such funds shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this chapter with the exception of transferring funds from the Vermont Drinking Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the Secretary.

(2) These funds shall be administered by the Bond Bank on behalf of the State, except that:

(A) the Vermont EPA Drinking Water State Revolving Fund shall be administered by VEDA concerning loans to privately owned public water systems under subdivisions (a)(3) and (5) of this section in accordance with subchapter 3 of this chapter;

(B) the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund shall be administered by VEDA concerning loans to private entities for clean water projects in accordance with subchapter 4 of this chapter; and

(C) the Vermont Wastewater and Potable Water Revolving Loan Fund may be administered by a community development financial institution, as that term is defined in 12 U.S.C. § 4702, that is contracted with by the State for the purpose of providing loans to individuals for failed wastewater systems and potable water supplies under subdivision (a)(10) of this section in accordance with section 4763b of this chapter.

(3) The funds shall be invested in the same manner as permitted for investment of funds belonging to the State or held in the Treasury.

(4) The funds shall consist of the following:

~~(1)~~(A) such sums as may be appropriated or transferred thereto from time to time by the General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times as the General Assembly is not in session;

~~(2)~~(B) principal and interest received from the repayment of loans made from each of such funds;

~~(3)~~(C) capitalization grants and awards made to the State by the United States of America for any of the purposes for which such funds have been established;

~~(4)~~(D) interest earned from the investment of fund balances;

~~(5)~~(E) private gifts, bequests, and donations made to the State for any of the purposes for which such funds have been established; and

~~(6)~~(F) other funds from any public or private source intended for use for any of the purposes for which such funds have been established.

* * *

Sec. 2. 24 V.S.A. § 4755 is amended to read:

§ 4755. LOAN; LOAN AGREEMENTS; GENERAL PROVISIONS

(a) Except as provided by subsection (c) of this section, the Bond Bank may make loans to a municipality on behalf of the State for one or more of the

purposes set forth in section 4754 of this chapter. Each of the loans shall be made subject to the following conditions and limitations:

* * *

(4) Notwithstanding any other provisions of law, municipal legislative bodies may execute notes and incur debt on behalf of municipalities:

(A) with voter approval at a duly warned meeting, for amounts less than \$75,000.00;

(B) by increasing previously approved bond authorizations by up to \$75,000.00 to cover unanticipated project costs or the cost of directly and functionally related enhancements; ~~or~~

(C) without voter approval for a natural resources project under the sponsorship program, as defined in section 4752 of this title, provided that:

(i) the amount of the debt incurred does not exceed an amount to be forgiven or cancelled upon the completion of the project; and

(ii) the municipality obtains voter approval for the paired water pollution abatement and control facilities project under the sponsorship program, pursuant to the requirements set forth in chapter 53 of this title; or

(D) without voter approval for municipal clean water and public water supply system projects receiving loan forgiveness, provided that the amount of debt incurred does not exceed the amount to be forgiven or cancelled upon completion of the project.

* * *

Sec. 3. 24 V.S.A. § 4763c is amended to read:

§ 4763c. LOANS TO MUNICIPALITIES FOR MUNICIPAL PUBLIC
WATER SUPPLY SYSTEMS

(a) The Secretary may certify to the Vermont Municipal Bond Bank established by section 4571 of this title the award of a loan to a municipality to assist with a public water supply system project, when the Secretary finds that:

* * *

(b) The certification by the Secretary shall specify the interest rate, and indicate which of the following loan conditions concerning construction loans apply:

(1) The term shall not exceed 30 years, and the annual interest rate, plus the administrative fee, shall be ~~no~~ not more than three percent or less than zero percent, except that when the applicant municipality is disadvantaged as

defined by subdivision 4752(12)(A) of this title, the term shall not exceed 40 years. When the applicant municipality is disadvantaged as defined in subdivision 4752(12), the annual interest rate, plus the administrative fee, shall be ~~no~~ not less than minus three percent.

* * *

Sec. 4. 24 V.S.A. § 4765 is amended to read:

§ 4765. APPLICATION FOR LOANS TO MUNICIPALITIES

* * *

Sec. 5. 24 V.S.A. § 4771 is amended to read:

§ 4771. CONDITIONS OF LOAN AGREEMENT

(a) VEDA may make loans to applicants on behalf of the State for one or more of the purposes set forth in subsection 4770(b) of this title. Each such loan shall be made subject to the following conditions:

(1) The loan shall be evidenced by a note payable over a term not to exceed ~~20~~ 30 years. Repayment shall commence ~~no~~ not later than one year after completion of the project for which loan funds have been applied.

* * *

(5)(A) Notwithstanding subdivision (4) of this subsection, a privately owned nonprofit community type system may qualify for a ~~30-year~~ 40-year loan term at an interest rate, plus administrative fee, to be established by the Secretary of Natural Resources that shall be ~~no~~ not more than three percent or less than minus three percent, provided that the applicant system meets the income level and annual household user cost requirements of a disadvantaged municipality as defined in ~~10 V.S.A. § 1571(9)(A)~~ subdivision 4752(12)(A) of this title, and at least 80 percent of the residential units served by the water system is continuously occupied by local residents and at least 80 percent of the water produced is for residential use.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(**Committee Vote: 10-0-1**)

H. 643

An act relating to banking and insurance

Rep. Ralph of Hartland, for the Committee on Commerce and Economic

Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Personal Information Protection Companies * * *

Sec. 1. 8 V.S.A. § 2100 is amended to read:

§ 2100. APPLICATION OF CHAPTER

(a) Except as otherwise provided in this part, this chapter applies to a person doing or soliciting business in this State as described in this part.

(b) This chapter does not apply to:

(1) development credit corporations subject to chapter 65 of this title; or

(2) independent trust companies subject to chapter 77 of this title; ~~or~~

~~(3) personal information protection companies subject to chapter 78 of this title.~~

Sec. 2. 8 V.S.A. § 2102(b)(14) is added to read:

(14) For an application for a personal information protection company license under chapter 78 of this title, \$500.00 as a license fee and \$500.00 as an application and investigation fee.

Sec. 3. 8 V.S.A. § 2109(a)(14) is added to read:

(14) For a personal information protection company license under chapter 78 of this title, \$500.00.

Sec. 4. 8 V.S.A. § 2453 is amended to read:

§ 2453. QUALIFIED PERSONAL INFORMATION PROTECTION
COMPANY

(a) A personal information protection company shall qualify to conduct its business under the terms of this chapter, chapter 72 of this title, and applicable rules adopted by the Department of Financial Regulation.

(b) A person shall not engage in business as a personal information protection company in this State without first obtaining a ~~certificate of authority~~ license from the Department.

* * *

Sec. 5. REPEAL

8 V.S.A. § 2456 (concerning fees applicable to personal information protection companies under 8 V.S.A. chapter 78) is repealed.

* * * Licensed Lenders; Exemption; All States * * *

Sec. 6. 8 V.S.A. § 2201(d)(1) is amended to read:

(1) A ~~State~~ state agency, political subdivision, or other public instrumentality of ~~the State~~ a state.

* * * Financial and Related Services; Licensing * * *

Sec. 7. 8 V.S.A. § 2103 is amended to read:

§ 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

(a) Upon the filing of an application, payment of the required fees, and satisfaction of any applicable bond and liquid asset requirements, the Commissioner shall issue a license to the applicant if the Commissioner finds:

(1)(A) The financial responsibility, experience, character, and general fitness of the applicant command the confidence of the community and warrant belief that the business will be operated honestly, fairly, and efficiently pursuant to the applicable chapter of this title.

(i) If the applicant is a partnership or association, such findings are required with respect to each partner, member, and responsible individual of, and each person in control of, the applicant.

(ii) If the applicant is a corporation, such findings are required with respect to each officer, director, and responsible individual of, and each person in control of, the applicant.

(B) For purposes of assessing whether a person is financially responsible, the Commissioner may consider how the person has managed his or her own financial condition, which may include factors such as whether the person has:

(i) current outstanding judgments, except judgments solely as a result of medical expenses;

(ii) current outstanding tax liens or other government liens and filings;

(iii) foreclosures within the past three years; or

(iv) a pattern of seriously delinquent accounts within the past three years.

(2) Allowing the applicant to engage in business will promote the convenience and advantage of the community in which the applicant will conduct its business.

(3) ~~The applicant is licensed to engage in the applicable business in its~~

~~state of domicile and is in good standing in its state of domicile with its banking regulator or equivalent financial industry regulator.~~

(4) The applicant, each officer, director, and responsible individual of, and each person in control of, the applicant, has never had a financial services license or similar license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation.

~~(5)~~(4) The applicant, each officer, director, and responsible individual of, and each person in control of, the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(A)(i) during the seven-year period preceding the date of the application for licensing and registration; or

(ii) at any time preceding such date of application, if such felony involved an act of fraud or dishonesty, a breach of trust, or money laundering; and

(B) provided that any pardon or expungement of a conviction shall not be a conviction for purposes of this subsection.

~~(6)~~(5) The applicant has satisfied the applicable surety bond and liquid asset requirement as follows:

(A) for an application for a lender license, mortgage broker license, mortgage loan originator license, or loan solicitation license, the applicable bond and liquid asset requirements of sections 2203 and 2203a of this title;

(B) for an application for a litigation funding company registration, the financial stability requirement of section 2252 of this title;

(C) for an application for a money transmitter license, the bond and net worth requirements of sections 2507 and 2510 of this title;

(D) for an application for a debt adjuster license, the bond requirement of section 2755 of this title; and

(E) for an application for a loan servicer license, the bond requirement of sections 2903 and 2907 of this title.

~~(7)~~(6) For an application for a mortgage loan originator license, the applicant has satisfied the prelicense education requirement of section 2204a of this title and the precensing testing requirement of section 2204b of this title.

(b)(1) If the Commissioner finds the applicant does not meet the

requirements of subsection (a) of this section, the Commissioner shall not issue a license.

(2) Not later than 60 days after an applicant files a complete application, the Commissioner shall notify the applicant of the denial, stating the reason or reasons therefor.

(3) If the applicant does not file a timely request for reconsideration pursuant to section 2104 of this title, the Commissioner shall:

(A) return to the applicant any amounts paid for the applicable bond requirement and license fee; and

(B) retain the investigation fee to cover the costs of investigating the application.

(c)(1) If the Commissioner finds that an applicant meets the requirements of subsection (a) of this section, he or she shall issue the license not later than 60 days after an applicant submits a complete application.

(2) Except as otherwise provided in this title, a license is valid until the licensee surrenders the license or the Commissioner revokes, suspends, terminates, or refuses to renew the license.

(d) For good cause shown and consistent with the purposes of this section, the Commissioner may waive or modify the requirements of ~~subdivisions~~ subdivision (a)(3) and (a)(4) of this section; provided, however, that the Commissioner may not waive the requirement of ~~subdivision (a)(4)~~ subdivision (a)(3) of this section for applicants for a mortgage loan originator license.

(e) If an application is remains incomplete and ~~the applicant has not corresponded with the Commissioner~~ for ~~90~~ 120 days, the Commissioner may deem the application abandoned or withdrawn.

(f) This section does not apply to a person applying for a commercial lender license under section 2202a of this title.

Sec. 8. 8 V.S.A. § 2104(b)(3)(A) is amended to read:

(A) return to the applicant the bond, if any, and any amounts paid for the applicable ~~bond requirement and~~ license fee; and

Sec. 9. 8 V.S.A. § 2115 is amended to read:

§ 2115. PENALTIES

(a) The Commissioner may:

(1) impose an administrative penalty of not more than \$10,000.00, plus

the State's cost and expenses of investigating and prosecution of the matter, including attorney's fees, for each violation upon any person who violates or participates in the violation of this part; chapter 200 of this title; 9 V.S.A. chapter 4, 59, or 61; or any lawful rule adopted, or directive or order issued, pursuant to those sections; and

(2) order any person to make restitution to another person for a violation of this title part, chapter 200 of this title, or 9 V.S.A. chapter 4, 59, or 61.

* * *

Sec. 10. 8 V.S.A. § 2120(c) is amended to read:

(c) A licensee shall submit to the Nationwide ~~Mortgage~~ Multistate Licensing System and Registry reports of condition in a form and including the information the Nationwide Multistate Licensing System and Registry requires, if applicable.

* * * Prepaid Access Cards; Fees * * *

Sec. 11. 8 V.S.A. § 2703 is amended to read:

§ 2703. PROHIBITED FEES

(a) Dormancy fees, latency fees, issuance fees, redemption fees, or any other administrative fees or service charges in connection with a gift certificate are prohibited.

(b) Notwithstanding subsection (a) of this section, a money transmitter licensed under chapter 79 of this title, financial institution, or credit union may charge a one-time fee upon the issuance of a prepaid access card ~~equal to the lesser of:~~

~~(1) 10 percent of the face amount purchased or added to the prepaid access card; or~~

~~(2) that is reasonably related to the cost to the issuer of issuing the card; provided that, in no event shall the fee exceed \$10.00.~~

* * * Credit for Reinsurance * * *

Sec. 12. 8 V.S.A. § 3634a is amended to read:

§ 3634a. CREDIT FOR REINSURANCE

(a) It is the purpose of this section to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The General Assembly hereby declares its intent is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that State interest, the General Assembly hereby

provides a mandate that upon the insolvency of a non-U.S. insurer or reinsurer that provides security to fund its U.S. obligations in accordance with this section, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance Commissioner with regulatory oversight, and the assets shall be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic U.S. insurance companies. The General Assembly declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. §§ 1011–1012.

(b) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivision (1), (2), (3), (4), (5), ~~or (6)~~, or (7) of this subsection. Credit shall be allowed under subdivision (1), (2), or (3) of this subsection only with respect to cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subdivision (3) or (4) of this subsection only if the applicable requirements of subdivision ~~(7)~~(8) of this subsection have been satisfied.

* * *

(6)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below:

(i) The assuming insurer shall have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. As used in this section, “reciprocal jurisdiction” means a jurisdiction that meets one of the following:

(I) a non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. As used in this subsection, a “covered agreement” means an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this State or for allowing the ceding insurer to recognize credit for reinsurance;

(II) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(III) a qualified jurisdiction, as determined by the Commissioner pursuant to subdivision (5)(C) of this subsection, that is not otherwise described in subdivision (6)(A)(i)(I) or (6)(A)(i)(II) of this subsection and that meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the Commissioner in rule.

(ii) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in rule.

(iii) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, that will be set forth in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(iv) The assuming insurer must agree and provide adequate assurance to the Commissioner, in a form specified in rule by the Commissioner, of the following:

(I) The assuming insurer must provide prompt written notice and explanation to the Commissioner if it falls below the minimum requirements set forth in subdivision (6)(A)(ii) or (6)(A)(iii) of this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law.

(II) The assuming insurer must consent in writing to the jurisdiction of the courts of this State and to the appointment of the Commissioner as agent for service of process. The Commissioner may require that consent for service of process be provided to the Commissioner and included in each reinsurance agreement. Nothing in this subsection shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree

to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

(III) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained.

(IV) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate.

(V) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement that involves this State's ceding insurers, and agree to notify the ceding insurer and the Commissioner and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subdivision (b)(5) and subsection (c) of this section and as specified by the Commissioner in rule.

(v) The assuming insurer or its legal successor must provide, if requested by the Commissioner, on behalf of itself and any legal predecessors, certain documentation to the Commissioner, as specified by the Commissioner in rule.

(vi) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule.

(vii) The assuming insurer's supervisory authority must confirm to the Commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in subdivisions (6)(A)(ii) and (6)(A)(iii) of this subsection.

(viii) Nothing in this subdivision (b)(6)(A) precludes an assuming insurer from providing the Commissioner with information on a voluntary basis.

(B) The Commissioner shall timely create and publish a list of

reciprocal jurisdictions.

(i) A list of reciprocal jurisdictions is published through the NAIC committee process. The Commissioner's list shall include any reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection and shall consider any other reciprocal jurisdiction included on the NAIC list. The Commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria to be developed in rules adopted by the Commissioner.

(ii) The Commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rules adopted by the Commissioner, except that the Commissioner shall not remove from the list a reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection. Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer that has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to this section.

(C) The Commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this subsection. The Commissioner may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the Commissioner as required under subdivision (6)(A)(iv) of this subsection and complies with any additional requirements that the Commissioner may impose by rule, except to the extent that they conflict with an applicable covered agreement.

(D) If the Commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the Commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures set forth in rule.

(i) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with subsection (c) of this section.

(ii) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with

respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the Commissioner and consistent with the provisions of subsection (c) of this section.

(E) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(F) Nothing in this subsection shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this section or other applicable law or rule.

(G)(i) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after January 1, 2021, and only with respect to losses incurred and reserves reported on or after the later of:

(I) the date on which the assuming insurer has met all eligibility requirements pursuant to subdivision (6)(A) of this subsection, and

(II) the effective date of the new reinsurance agreement, amendment, or renewal.

(ii) This subdivision (b)(6)(G) does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this section.

(iii) Nothing in this subsection shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(iv) Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(7) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3), (4), ~~or (5), or (6)~~ of this subsection, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

~~(7)~~(8) If the assuming insurer is not licensed or accredited or certified to

transact insurance or reinsurance in this State, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(A) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal.

(B) To designate the Commissioner, the Secretary of State, or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company. This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

~~(8)~~(9) If the assuming insurer does not meet the requirements of subdivision (1), (2), ~~or (3)~~, or (6) of this subsection, the credit permitted by subdivision (4) or (5) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(A) Notwithstanding any other provisions in the trust instrument to the contrary, if the trust fund is inadequate because it contains an amount less than the amount required by subdivisions (4)(B)–(D) of this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the Commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the Commissioner with regulatory oversight all of the assets of the trust fund.

(B) The assets shall be distributed by and claims shall be filed with and valued by the Commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(C) If the Commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the Commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(D) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

~~(9)~~(10) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the Commissioner may suspend or revoke the reinsurer's accreditation or certification.

(A) The Commissioner must give the reinsurer notice and opportunity for hearing. The Commissioner may suspend or revoke a reinsurer's accreditation or certification without a hearing if:

(i) the reinsurer waives its right to hearing;

(ii) the Commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subdivision (5)(F) of this subsection; or

(iii) the Commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commissioner's action.

(B) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (c) of this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subdivision (5)(E) of this subsection or subsection (c) of this section.

~~(10)~~(11) Concentration Risk.

* * *

* * * Insurance Claims; Annuity Death Benefits; Interest Payments * * *

Sec. 13. 8 V.S.A. § 3664 is amended to read:

§ 3664. FORMS; FILING PROOF OF LOSS AND OTHER DOCUMENTS,
WAIVER OF FILING

Insurance companies, societies, or associations, or insurance adjusters appointed by said companies, societies, or associations shall furnish in form for completion by the insured claimant, as defined in section 3665a of this title, or beneficiary, as defined in section 3665b of this title, all documents as

to proof of loss or other matter required by contract to be submitted to the companies. Failure to furnish said forms within a reasonable time after notice of loss or damage is received by said companies, societies, or associations shall be deemed a waiver of any requirement that proof of loss shall be filed with the insurer on said forms as a condition precedent to the recovery of losses or claims.

Sec. 14. REPEAL

8 V.S.A. § 3665 (concerning the timely payment of insurance claims) is repealed.

Sec. 15. 8 V.S.A. § 3665a is added to read:

§ 3665a. TIMELY PAYMENT OF PROPERTY AND CASUALTY

INSURANCE CLAIMS; INTEREST

(a) This section applies to policies of property, casualty, surety, and title insurance, as defined in section 3301 of this title. It does not apply to workers' compensation insurance. As used in this section, "claimant" means any person asserting a right to payment under an insurance policy or contract arising out of the occurrence of the contingency or loss covered by such policy or contract or any person asserting a claim against any other person or the interests insured under an insurance policy or contract, and includes a claimant's designated legal representative and any member of the claimant's immediate family designated in writing by the claimant.

(b) Unless a different time period is specified in another section of this title, all payments of claims under policies of insurance shall be made within time periods provided by this section:

(1) For claims under policies of insurance other than surety insurance and title insurance, within 10 business days after the date that settlement of the claim is agreed upon between the insurer, the claimant, and the loss payee, as applicable, and in accordance with rules adopted by the Commissioner.

(2) For claims under policies of surety and title insurance, within 30 days after the date that settlement of the claim is agreed upon between the insurer, the claimant, and the loss payee, as applicable, and in accordance with rules adopted by the Commissioner.

(3) If a claim is contested, within 30 days after the entry of a final nonappealable judgment against the insurer; the entry of a binding arbitration decision between the insurer, the claimant, the loss payee, and the Department, as applicable; or the execution of a settlement agreement between the insurer, the claimant, the loss payee, and the Department, as applicable.

(c) If an insurer fails to pay a claim within the applicable time period set forth in subsection (b) of this section or any other time period provided by statute, it shall thereafter pay interest on the amount of the claim at the judgment rate allowed by law. Interest shall accrue from 30 days after the date the insurer receives a properly executed proof of loss.

Sec. 16. 8 V.S.A. § 3665b is added to read:

§ 3665b. TIMELY PAYMENT OF LIFE INSURANCE CLAIMS AND ANNUITY DEATH BENEFITS; INTEREST

(a) This section applies to policies of life insurance and contracts of annuity. As used in this section, a “beneficiary” means any person making a claim against a policy of life insurance or for death benefits provided under a contract of annuity.

(b) A claim for payment of benefits under a policy of life insurance shall be paid within 30 days after the date that a properly executed proof of loss is received by the insurer. All payments of claims under policies of life insurance shall include interest accrued from the date of death of the insured to the date of payment. The interest rate shall be the rate paid on proceeds left on deposit or six percent, whichever is greater.

(c) A claim for payment of benefits under a contract of annuity shall be paid within 30 days after the date that a properly executed proof of loss is received by the insurer. Payments of claims for death benefit proceeds under contracts of annuity shall include interest at the rate paid for proceeds left on deposit or six percent, whichever is greater. Interest shall accrue and be payable as follows:

(1) For variable annuity contracts subject to the Securities and Exchange Commission’s rules governing the liquidation of account values at the death of the beneficiary, from the eighth day following the date that a properly executed proof of loss is received by the insurer.

(2) For all other contracts of annuity, from the date of death of the measuring life, unless the contract specifies that the contract remains in force until the date that a properly executed proof of loss is received by the insurer. For purposes of this section, the individual whose death triggers the death benefit proceeds is the measuring life.

(d) If a claim is contested, it shall be paid within 30 days after the entry of a final nonappealable judgment against the insurer; the entry of a binding arbitration decision between the insurer, the beneficiary, and the Department, as applicable; or the execution of a settlement agreement between the insurer, the beneficiary, and the Department, as applicable.

(e) If an insurer fails to pay a claim within the applicable time period set forth in subsection (b), (c), or (d) of this section, it shall thereafter pay interest on the amount of the claim at the judgment rate allowed by law. Interest shall accrue from 30 days after the date the insurer receives a properly executed proof of loss.

Sec. 17. 8 V.S.A. § 3665c is added to read:

§ 3665c. DAMAGES

An insurance company, including a society and an association, is responsible for payment of any consequential damages, including all penalties or costs, caused by improper delay in payment or settlement of claims to claimants, loss payees, or beneficiaries under policies of insurance subject to section 3665a or 3665b of this title. Consequential damages for improper delay are not applicable when a policy expressly provides for periodic payments or when a claimant, loss payee, or beneficiary agrees to accept periodic payments, unless an insurer improperly delays making such periodic payments.

Sec. 18. 8 V.S.A. § 3731(10) is amended to read:

(10) Payment of claims. There shall be a provision that when the benefits under the policy shall become payable by reason of the death of the insured, settlement shall be made upon receipt of due proof of death, and at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed ~~two months~~ 30 days from the receipt of such proofs.

* * * Public Holding Company Acquisitions; Public Hearings * * *

Sec. 19. 8 V.S.A. § 3683(f) is amended to read:

(f) Approval by Commissioner; hearings.

(1) The Commissioner shall hold a public hearing on any merger or other acquisition of control referred to in subsection (a) of this section if the Commissioner determines that the statement filed as required by this section does not demonstrate compliance with the standards referred to in subsection (b) of this section or if the Commissioner determines that such acquisition of control is likely to be hazardous or prejudicial to the insurance buying public, or at the request of the acquiring party. Holding a public hearing is otherwise optional at the discretion of the Commissioner. In the event the Commissioner determines that a public hearing is not required, the Commissioner shall require that notice of the transaction be published on the website maintained by the Department of Financial Regulation and in two daily newspapers of

general jurisdiction in Vermont, as determined by the Commissioner. The notice shall describe the proposed transaction and state that members of the public and interested parties may file written comments on the proposed transaction with the Commissioner. The Commissioner shall consider all written comments received within 14 days after initial publication of the notice and may subsequently hold a public hearing in response to any comments received. The Commissioner shall approve any merger or other acquisition of control referred to in subsection (a) of this section unless, ~~after a public hearing thereon,~~ he or she finds that:

(A) after the change of control the domestic insurer referred to in subsection (a) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(B) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or tend to create a monopoly. In applying the competitive standard in this subdivision:

(i) the informational requirements of subdivision 3683a(c)(1) and the standards of subdivision 3683a(d)(2) of this chapter shall apply;

(ii) the merger or other acquisition shall not be disapproved if the Commissioner finds that any of the situations meeting the criteria provided by subdivision 3683a(d)(3) of this chapter exist; and

(iii) the Commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(C) the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(D) the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a) of this section are unfair and unreasonable to the security holders of the insurer;

(E) the plans or proposals ~~which~~ that the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(F) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger

or other acquisition of control; or

(G) the acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(2) The public hearing referred to in subdivision (1) of this subsection (f), if required, shall be held within ~~30~~ 60 days after the statement required by subsection (a) of this section is filed, and at least 20 days' notice thereof shall be given by the Commissioner to the person filing the statement. Not less than seven days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within 30 days after the conclusion of such hearing or, if a public hearing is not required, within 30 days after the comment period deadline; provided, however, that, if the insurer is or will be an affiliate of a depository institution or any affiliate thereof, the Commissioner shall issue a determination within the 60-day period preceding the effective date of the acquisition or change or continuation of control of an insurer. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected thereby shall have the right to present evidence, examine, and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the Superior Court of this State. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

(3) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing ~~required by subdivision (2) of this subsection~~ may be held on a consolidated basis upon request of the person filing the statement referred to in subsection (a) of this section. Such person shall file the statement referred to in subsection (a) of this section with the NAIC within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing and shall provide notice to the applicant of the opt-out within 10 days of the receipt of the statement referred to in subsection (a) of this section. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. A commissioner may attend such hearing in person or by telecommunication.

(4) In connection with a change of control of a domestic insurer, any determination by the Commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the

level required by the laws and rules of this State shall be made not later than 60 days after the date of notification of the change in control submitted pursuant to subdivision (a)(1) of this section.

(5) The Commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing the proposed acquisition of control.

* * * INSURANCE HOLDING COMPANIES; CONFORMING
CROSS REFERENCE * * *

Sec. 20. 8 V.S.A. § 3681(3) is amended to read:

(3) "Control" (including the terms "controlling," "controlled by" and "under common control with"), means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection ~~3684(i)~~ 3684(1) of this title that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

* * * Life Insurance; Conforming Cross References * * *

Sec. 21. 8 V.S.A. § 3859(a) is amended to read:

(a) Except for subdivisions 3731(2), (7), (8), and (9), ~~sections 3741-3749~~ sections 3760-3773, inclusive, ~~and~~ section 3813 of this title in the case of a variable life insurance policy, and section 3750 of this title in the case of a variable annuity contract, and except as otherwise provided in this subchapter, all pertinent provisions of this title apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this State shall contain grace, reinstatement, and nonforfeiture provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery in this State, shall contain grace provisions appropriate to such a contract.

* * * INSURANCE TRADE PRACTICES; CONFORMING

CROSS REFERENCE * * *

Sec. 22. 8 V.S.A. § 4724(7)(B)(ii) is amended to read:

(ii) Rates; however, nothing in this subdivision shall prevent any person who contracts to insure another from setting rates for such insurance in accordance with reasonable classifications based on relevant actuarial data or actual cost experience in accordance with ~~section 4656~~ section 4686 of this title.

* * * Hospital and Medical Service Corporations; Annual
Report Deadline * * *

Sec. 23. 8 V.S.A. § 4516 is amended to read:

§ 4516. ANNUAL REPORT TO COMMISSIONER

Annually, on or before ~~March 15~~ March 1, a hospital service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the president and treasurer of the corporation showing its condition on December 31. The statement shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4518 of this title, the statement shall include a certification that the hospital service corporation operates on a nonprofit basis for the purpose of providing an adequate hospital service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

Sec. 24. 8 V.S.A. § 4588 is amended to read:

§ 4588. ANNUAL REPORT TO COMMISSIONER

Annually, on or before ~~March 15~~ March 1, a medical service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the president and treasurer of the corporation showing its condition on December 31, which shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4590 of this title, the statement shall include a certification that the medical service corporation operates on a nonprofit basis for the purpose of providing an adequate medical service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

* * * Association Health Plans; Required Policy Provisions * * *

Sec. 25. 8 V.S.A. § 4079a(d)(3) is added to read:

(3) This subsection does not apply to association health plans that were formed or could have been formed under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1901, et. seq., and accompanying U.S. Department of Labor regulations and guidance, in each case, as in effect as of January 19, 2017.

Sec. 26. 8 V.S.A. § 4080(b) is amended to read:

(b)(1) Preexisting condition exclusions.

(A) A group insurance policy shall not contain any provision that excludes, restricts, or otherwise limits coverage under the policy for one or more preexisting health conditions.

~~(B) As used in this subdivision (1), “group insurance policy” shall not include a policy providing coverage for a specified disease or other limited benefit coverage.~~

* * *

(5) As used in this subsection, “group insurance policy” has the same meaning as “group health plan” and shall be subject to the same excepted benefits, in each case, as set forth in 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

Sec. 27. 8 V.S.A. § 4089d(a) is amended to read:

(a) As used in this section, “health insurance plan” ~~means any group or individual policy; nonprofit hospital or medical service corporation subscriber contract; health maintenance organization contract; self-insured group plan, to the extent permitted under federal law; and prepaid health insurance plans delivered, issued for delivery, renewed, replaced, or assumed by another insurer, or in any other way continued in force in this State~~ has the same meaning as “group health plan” and shall be subject to the same excepted benefits, in each case, as set forth in 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

* * * Securities; Filing Fees; Federal Covered Firms * * *

Sec. 28. 9 V.S.A. § 5410(e) is amended to read:

(e) A federal covered investment adviser required to file a notice under section 5405 of this title shall pay an initial fee of \$300.00 and an annual notice fee of \$300.00. ~~To the extent required to be included in documents filed with the Securities and Exchange Commission, such notice filing shall include information on the branch offices of a federal covered investment adviser who transacts business in this State from any place of business located within this State, accompanied by a notice filing fee of \$120.00 per branch office in~~

~~Vermont.~~ A notice filing may be terminated by filing notice of such termination with the Commissioner. If a notice filing results in a denial or withdrawal, the Commissioner shall retain the fee.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Sec. 12 (credit for reinsurance) shall take effect on January 1, 2021.

(Committee Vote: 11-0-0)

Rep. Donahue of Northfield, for the Committee on Health Care, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development.

(Committee Vote: 11-0-0)

H. 692

An act relating to providing mandatory cybersecurity awareness training to municipal employees

Rep. Chase of Colchester, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 3305 is added to read:

§ 3305. MUNICIPAL CYBERSECURITY AWARENESS TRAINING

(a) Inventory and notice.

(1) On July 1 each year, the Secretary of Digital Services shall inventory and identify any municipality that has access to add, delete, update, or change data in a State-operated information technology system.

(2) Not more than 30 days after the Secretary completes the inventory, the Agency of Digital Services shall send a notice to a municipality identified in subdivision (1) of this subsection stating that any employee who accesses a State-operated information technology system is required to complete the training described in subsection (b) of this section.

(b) Cybersecurity awareness training.

(1) Except as provided in subdivision (2) of this section, the Agency of Digital Services shall provide annual cybersecurity awareness training, which shall be offered online, to the employees of any municipality identified in subdivision (a)(1) of this section.

(2) The Office of the Secretary of State shall provide cybersecurity awareness training to a town clerk or assistant clerk in connection with the statutory election responsibilities of a town clerk's office. In consultation with the Secretary of Digital Services the training, at a minimum, shall be inclusive of and consistent with the training described in subdivision (1) of this section. A town clerk or assistant clerk who completes the cybersecurity awareness training provided by the Office of the Secretary of State is not required to complete the training described in subdivision (1) of this section.

(c) Compliance.

(1) A municipality's employees shall be enrolled in the training described in subsection (b) of this section not more than 90 days after receipt of the notice described in subdivision (a)(2) of this section. If a municipality's employee does not complete training within one year after the date of enrollment in the training, and annually thereafter, the Agency of Digital Services shall prohibit the noncompliant employee from accessing any State-operated system until the municipality can provide documentation that the employee has completed training.

(2) Notwithstanding subdivision (1) of this subsection, no town clerk or assistant clerk shall be denied access to any State-operated system that the town clerk's office is required to access as part of its statutory election responsibilities.

(d) Report. The Agency of Digital Services shall include in its annual report described in section 3303 of this title the cost of the inventory and training described in this section.

Sec. 2. FY 2021; CYBERSECURITY AWARENESS TRAINING;

APPROPRIATION

The amount of \$250,000.00 in general funds is appropriated to the Agency of Digital Services in FY 2021 for the program described in Sec. 1 of this act.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 9-0-0)

H. 723

An act relating to health insurance coverage for store-and-forward telemedicine

Rep. Houghton of Essex, for the Committee on Health Care, recommends the bill be amended by striking all after the enacting clause and inserting in

lieu thereof the following:

Sec. 1. TELEHEALTH EXPANSION; LEGISLATIVE INTENT

It is the intent of the General Assembly to increase Vermonters' access to health care services through an expansion of telehealth services without increasing social isolation or supplanting the role of local, community-based health care providers throughout rural Vermont.

Sec. 2. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED
THROUGH TELEMEDICINE AND BY STORE-AND-
FORWARD MEANS

(a)(1) All health insurance plans in this State shall provide coverage for health care services and dental services delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation.

(2)(A) A health insurance plan shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telemedicine.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply to services provided pursuant to the health insurance plan's contract with a third-party telemedicine vendor to provide health care or dental services.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service or dental service provided through telemedicine so as long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network. A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary and are clinically appropriate for delivery through telemedicine, subject to the terms and conditions of the covered person's policy.

~~(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means~~

(1) A health insurance plan shall reimburse for health care services and dental services delivered by store-and-forward means.

(2) A health insurance plan shall not impose more than one cost-sharing requirement on a patient for receipt of health care services or dental services delivered by store-and-forward means. If the services would require cost-sharing under the terms of the patient's health insurance plan, the plan may impose the cost-sharing requirement on the services of the originating site health care provider or of the distant site health care provider, but not both.

(f) A health insurer shall not construe a patient's receipt of services delivered through telemedicine or by store-and-forward means as limiting in any way the patient's ability to receive additional covered in-person services from the same or a different health care provider for diagnosis or treatment of the same condition.

(g) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

~~(g)~~(h) In order to facilitate the use of telemedicine in treating substance use disorder, when the originating site is a health care facility, health insurers and the Department of Vermont Health Access shall ensure that the health care provider at the distant site and the health care facility at the originating site are both reimbursed for the services rendered, unless the health care providers at both the distant and originating sites are employed by the same entity.

~~(h)~~(i) As used in this subchapter:

* * *

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as a stand-alone dental plan or policy or other dental insurance plan offered by a dental insurer, and Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

* * *

(4) "Health care provider" means a person, partnership, or corporation,

other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care services, including dental services, in this State to an individual during that individual's medical care, treatment, or confinement.

* * *

(6) "Store and forward" means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which. In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.

(7) "Telemedicine" means the delivery of health care services, including dental services, such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. ~~Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.~~

Sec. 3. 18 V.S.A. § 9361 is amended to read:

§ 9361. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY STORE-AND-FORWARD STORE-AND-FORWARD MEANS

* * *

(c)(1) A health care provider delivering health care services or dental services through telemedicine shall obtain and document a patient's oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.

(A) The informed consent for telemedicine services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of telemedicine within the provider's profession and shall include, in language that patients can easily understand:

(i) an explanation of the opportunities and limitations of delivering health care services or dental services through telemedicine;

(ii) informing the patient of the presence of any other individual who will be participating in or observing the patient's consultation with the provider at the distant site and obtaining the patient's permission for the participation or observation; and

(iii) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

* * *

~~(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means~~

(1) A patient receiving health care services or dental services by store-and-forward means shall be informed of the patient's right to refuse to receive services in this manner and to request services in an alternative format, such as through real-time telemedicine services or an in-person visit.

(2) Receipt of services by store-and-forward means shall not preclude a patient from receiving real time real-time telemedicine or face-to-face services or an in-person visit with the distant site health care provider at a future date.

(3) Originating site health care providers involved in the store and forward store-and-forward process shall obtain informed consent from the patient as described in subsection (c) of this section.

Sec. 4. TELEMEDICINE REIMBURSEMENT; SUNSET

8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on January 1, 2026.

Sec. 5. EFFECTIVE DATE

This act shall take effect on January 1, 2021.

and that after passage the title of the bill be amended to read: "An act relating to telehealth"

(Committee Vote: 11-0-0)

H. 754

An act relating to restructuring and reorganizing General Assembly staff offices

Rep. Donahue of Northfield, for the Committee on Rules, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Sergeant at Arms * * *

Sec. 1. 2 V.S.A. chapter 3 is amended to read:

CHAPTER 3. SERGEANT AT ARMS

* * *

§ 62. LEGISLATIVE DUTIES

(a) The Sergeant at Arms shall:

(1) execute orders of either house, the Joint Legislative Management Committee, the Committee on Joint Rules, or the House or Senate Committee on Rules;

* * *

(d) The Sergeant at Arms and employees of the Sergeant at Arms shall seek guidance from and operate in accordance with policies adopted by the Joint Legislative Management Committee.

§ 63. SALARY

~~(a) The salary for a newly elected Sergeant at Arms shall be set by the Joint Rules Committee and annually thereafter, this compensation shall be adjusted in accordance with any annual increase provided for legislative employees, unless otherwise determined by the Joint Rules Committee.~~

~~(b) [Repealed.]~~

§ 64. EMPLOYMENT OF ASSISTANTS; CAPITOL POLICE; TRAINING; UNIFORMS AND EQUIPMENT

~~(a) The Sergeant at Arms may, subject to the rules of the General Assembly, employ such employees as may be needed to carry out the Sergeant at Arms' duties. These may include assistants, custodians, doorkeepers, guides, messengers, mail and room assignment clerks, security guards, and pages, and other staff as needed to carry out the Sergeant at Arms' duties, except that requests for new, permanent positions shall be subject to the approval of the Joint Legislative Management Committee. Compensation for~~

~~such employees shall be determined by the Joint Rules Committee, except that prior to the beginning of any legislative session, compensation for a person who fills the same temporary position that he or she filled during the preceding session and, in the case of a person newly employed to fill a temporary position, the rate of compensation shall be established initially by the Sergeant at Arms at a rate not to exceed the rate established for the person who held that position during the preceding legislative session. Persons employed under this section shall be paid in the same manner as members of the General Assembly. The Commissioner of Finance and Management shall issue his or her warrant in payment of compensation approved under this section.~~

(b) All individuals employed by the Sergeant at Arms shall be subject to the personnel policies adopted by the Joint Legislative Management Committee.

(c) The provisions of 3 V.S.A. chapter 13 (classification of State personnel) shall not apply to employees of the Sergeant at Arms unless this exception is partially or wholly waived by the Joint Rules Committee consistent with the rules of the General Assembly. Any waiver may subsequently be rescinded in whole or in part Joint Legislative Management Committee.

* * *

§ 68. BUDGET

The Sergeant at Arms shall propose a budget for the Office of Sergeant at Arms to the Joint Legislative Management Committee.

* * *

§ 70. CAPITOL POLICE DEPARTMENT

* * *

(d) Strategic plan. The Sergeant at Arms, in consultation with the Chief, shall prepare, maintain, and update, at least biennially, a strategic plan for the Capitol Police Department, which shall be subject to review and approval by the Joint Legislative Management Committee.

* * * Office of Legislative Counsel * * *

Sec. 2. 2 V.S.A. chapter 13 is amended to read:

CHAPTER 13. OFFICE OF LEGISLATIVE SERVICES COUNSEL

Subchapter 4 1. Legislative Council Office of Legislative Counsel

§ 401. CREATION AND PURPOSE

~~A Legislative Council~~ The Office of Legislative Counsel is created as a

permanent agency to serve the General Assembly with a professional staff and secretarial nonpartisan legislative drafting, research, and other professional legal and editorial services.

§ 402. MEMBERSHIP DIRECTOR AND CHIEF COUNSEL; EMPLOYEES

~~(a) The Legislative Council shall consist of:~~

~~(1) The President Pro Tempore of the Senate and three members of the Senate appointed by the President.~~

~~(2) The Speaker of the House and three members of the House appointed by the Speaker.~~

~~(b) Members shall serve a term of two years or until their successors are appointed. The term of a member shall end upon his or her ceasing to be a member of the General Assembly.~~

~~(c) Interim vacancies may be filled by appointment by the President of the Senate or the Speaker of the House in the same manner as in subsection (a) of this section.~~

~~(d) The members shall be appointed from the political parties in the general proportion to the membership of each party in each house.~~

~~(e) Appointments shall be made biennially at the same time as standing committees.~~

(a) The Joint Legislative Management Committee shall employ an individual to be the Director and Chief Counsel of the Office of Legislative Counsel. The Committee may conduct the hiring process itself or it may delegate this duty to a special hiring committee comprising an equal number of members from the House and Senate, not all of whom shall be from the same political party; however, the Joint Legislative Management Committee shall make the final hiring decision.

(b)(1) The Director and Chief Counsel shall employ legal, editorial, and other professional staff as needed to carry out the duties of the Office of Legislative Counsel, except that requests for new, permanent positions shall be subject to the approval of the Joint Legislative Management Committee.

(2) All individuals employed by the Office of Legislative Counsel shall be subject to the personnel policies adopted by the Joint Legislative Management Committee.

(3) The provisions of 3 V.S.A. chapter 13 (classification of State personnel) shall not apply to employees of the Office of Legislative Counsel.

§ 403. ORGANIZATION; EXPENSES FUNCTIONS; CONFIDENTIALITY

~~(a) The Legislative Council shall meet immediately following the appointment of its membership to elect a chair and a vice chair and to organize and conduct its business. The members of the Council shall adopt rules for the organization of the Council and the operation of its personnel. The Council may meet as often as it deems necessary, and a majority of the members shall constitute a quorum for the transaction of business. Meetings may be called by the Chair or by a majority of the members.~~

~~(b) The Legislative Council shall employ such professional and secretarial staff as are required to carry out its functions and fix their compensation. 3 V.S.A. chapter 13 shall not apply to employees of the Council unless this exception is partially or wholly waived by the Council.~~

~~(c) After July 1, 1972, all of the expenses of the Legislative Council shall be charged to the legislative appropriation, and the Council shall prepare a detailed Legislative Council budget generally in the format of departmental budgets.~~

(a) The Office of Legislative Counsel shall provide legal services to the General Assembly and its staff, including:

(1) drafting bills, resolutions, amendments, and other legal documents;

(2) providing legal research and analysis in relation to current or anticipated legislative matters;

(3) providing policy analysis of current or anticipated legislative matters;

(4) maintaining a reference library;

(5) maintaining confidential documents and other confidential materials provided to or generated by the Office in the course of business;

(6) providing contracting and other legal services to the Joint Legislative Management Committee and other legislative offices; and

(7) furnishing such other information and legal assistance with respect to legislative matters as may be required by a member, member-elect, committee or similar entity of the General Assembly, a chamber of the General Assembly, or the General Assembly as a whole, in the performance of its duties.

(b)(1) All requests for legal assistance, information, and advice from the Office of Legislative Counsel, all information received in connection with research or drafting, and all confidential materials provided to or generated by the Office shall remain confidential unless the party requesting or providing the information or material designates that it is not confidential.

(2) Recordings and minutes of committee meetings, bills and amendments that have been approved for printing or introduction, and material appearing in the journals or calendars of either house are official documents and materials and shall not be confidential under this subsection.

~~(d) The Legislative Council shall have its offices in the State House.~~

~~(e) For attending a meeting of the Legislative Council when he or she is not receiving compensation as a member of the General Assembly, a member of the Legislative Council shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of standing committees under 2 V.S.A. § 406.~~

§ 404. FUNCTIONS BUDGET

~~(a) The Legislative Council shall direct, supervise, and coordinate the work of its staff and secretaries.~~

~~(b) The Legislative Council shall:~~

~~(1) furnish research services in relation to legislative problems;~~

~~(2) furnish drafting services for bills, resolutions, and amendments;~~

~~(3) establish and maintain a reference library;~~

~~(4) furnish such other information and legal assistance respecting legislative matters as may be required by a committee of either house, a joint committee of the General Assembly, or a member-elect of the General Assembly;~~

~~(5) appoint one or more persons to serve as staff for a standing committee of either house or any group of standing committees of the House and Senate;~~

~~(6) except when the General Assembly is in session and upon the request of any person, provide him or her, on a weekly basis, with a list of all public hearings or meetings scheduled by a council, committee, subcommittee, commission, or study committee of the General Assembly or any cancellations of hearings or meetings thereof previously scheduled;~~

~~(7) keep minutes of its meetings and shall maintain a file thereof.~~

~~(c) All requests for legal assistance, information, and advice and all information received in connection with research or drafting shall be confidential unless the party requesting or giving the information designates in the request that it is not confidential. Transcripts and minutes of committee meetings, including written testimony submitted to the committee, bills or amendments that have been released or approved for printing or introduction,~~

~~and material appearing in the journals or calendars of either house are official documents and shall not be confidential under this subsection.~~

The Director and Chief Counsel shall propose a budget for the Office of Legislative Counsel to the Joint Legislative Management Committee.

§ 405. INTERGOVERNMENTAL COOPERATION

For the purposes of carrying out its duties, the ~~Legislative Council and its staff~~ Office of Legislative Counsel shall have access to and the right to copy any public record of all executive, administrative, and judicial departments of the State, except income and franchise tax returns and other documents classified as confidential by law.

* * *

Subchapter ~~5~~ 2. Statutory Revision

§ 421. ~~LEGISLATIVE COUNCIL~~ OFFICE OF LEGISLATIVE COUNSEL; STATUTORY PUBLICATION AND REVISION DUTIES

(a) The ~~Legislative Council~~ Office of Legislative Counsel shall continuously maintain and update a formal topical revision of existing permanent statutory law to be known as the Vermont Statutes Annotated. The topical revision shall be arranged in a systematic and annotated form that is consolidated into the smallest practical number of volumes and indexes.

(b) The ~~Legislative Council~~ Office of Legislative Counsel, on behalf of the State of Vermont, shall hold the copyright to the Vermont Statutes Annotated.

§ 422. CONTRACT FOR PREPARATION OF VERMONT STATUTES ANNOTATED

(a) The ~~Legislative Council~~ Office of Legislative Counsel shall contract with a competent legal publisher to revise and publish the Vermont Statutes Annotated.

(b) The contract for publishing the Vermont Statutes Annotated shall provide for the annual editing and publishing of cumulative pocket part supplements after each biennial and adjourned legislative session for the duration of the contract. The cumulative pocket part supplements shall include all the codified laws that were enacted during the concluded biennial or adjourned session of the General Assembly, and during any special session that has occurred since the last annual publication. Each edition of the cumulative pocket part supplements to the Vermont Statutes Annotated shall include all annotations of constructions of the Vermont Supreme Court ~~of the State of Vermont~~ and all federal courts of the United States, available at the closing

date of each edition of the pocket parts.

(c) The contracted publisher shall, as provided in the contract, ~~or as statutorily directed by the General Assembly,~~ publish replacement volumes of existing titles, or separate volumes of new titles, of the Vermont Statutes Annotated.

§ 423. ACCEPTANCE AS EVIDENCE OF LAW

(a) ~~The Legislative Council~~ Office of Legislative Counsel shall require the contracted publisher to deliver the cumulative pocket parts and separate supplements to the Vermont Statutes Annotated prior to the convening of the next session of the General Assembly, which shall include a certificate of authenticity that the ~~Legislative Council~~ Office of Legislative Counsel shall issue. The certificate shall entitle the statutes contained in the cumulative pocket parts and separate supplements to admission in all the courts of Vermont as prima facie evidence of the law, ~~and may be cited as “V.S.A.”.~~

(b) ~~The Legislative Council~~ Office of Legislative Counsel shall require the contracted publisher to deliver new and replacement volumes of the Vermont Statutes Annotated with a certificate of authenticity that the ~~Legislative Council~~ Office of Legislative Counsel shall issue. The certificate shall entitle the statutes contained in the new and replacement volumes to admission in all the courts of Vermont as prima facie evidence of the law, ~~and may be cited as “V.S.A.”.~~

(c) A certificate of authority issued by the Statutory Revision Commission pursuant to the authority of the former 1 V.S.A. § 4 shall continue to entitle a cumulative pocket part and separate supplement, or a new and replacement volume, for which it was issued to admission in all the courts of Vermont as prima facie evidence of the law ~~and may be cited as “V.S.A.”.~~

(d) The Vermont Statutes Annotated may be cited as “V.S.A.”

§ 424. ~~LEGISLATIVE COUNCIL~~ OFFICE OF LEGISLATIVE COUNSEL; REVISION AUTHORITY

In preparing an individual act for codification in the Vermont Statutes Annotated or publication in the Acts and Resolves, the ~~Legislative Council~~ Office of Legislative Counsel may not alter the sense, meaning, or effect of any act of the General Assembly, but it may:

* * *

§ 425. STATUTORY DATABASES

(a) The ~~Legislative Council~~ Office of Legislative Counsel, in collaboration

with the Office of Legislative Information Technology, shall maintain computerized databases of the Vermont Statutes Annotated, which shall be posted on the General Assembly's website. The databases shall include the enactment history of a codified statutory section, but shall not maintain the revisor's notes, the judicial annotations added by the publisher, or the Acts and Resolves. ~~The Legislative Council shall post these databases on the website of the Vermont General Assembly.~~

§ 426. ANNUAL STATUTORY REVISION LEGISLATION

Annually, ~~by~~ on or before February 1, the ~~Legislative Council~~ Office of Legislative Counsel may prepare and submit to the General Assembly a bill that proposes recommendations of any additions, repeals, or amendments to the existing statutes.

* * * Joint Legislative Management Committee * * *

Sec. 3. 2 V.S.A. chapter 14 is redesignated and amended to read:

~~CHAPTER 14~~ 2. JOINT LEGISLATIVE MANAGEMENT COMMITTEE

~~§ 451~~ 41. CREATION OF COMMITTEE; PURPOSE

(a) Creation. There is created the Joint Legislative Management Committee. The Committee shall provide general oversight and management across the offices of the General Assembly and shall coordinate the operations of the Office of Legislative Operations in its delivery of shared administrative services to the legislative offices and the Legislature General Assembly.

(b) Membership. The Committee shall be composed of the following members:

(1) four members of the House, which shall include ~~representatives of the Legislative Council Committee,~~ representation from the Joint Fiscal Committee, and the House Rules Committee, and shall consist of:

(A) the Speaker of the House; and

(B) three members of the House appointed by the Speaker, not all from the same political party; and

(2) four members of the Senate, which shall include ~~representatives of the Legislative Council Committee,~~ representation from the Joint Fiscal Committee, and the Senate Rules Committee, and shall consist of:

(A) the President Pro Tempore; and

(B) three members of the Senate appointed by the Committee on Committees, not all from the same political party.

(c) Appointments and terms.

(1) Appointments shall be made biennially at the same time as standing committees.

(2) Members shall serve a term of two years or until their successors are appointed. The term of a member shall end upon his or her ceasing to be a member of the General Assembly.

~~(d)~~(3) Interim vacancies may be filled by appointment by the Committee on Committees or the Speaker of the House in the same manner as in subsection (b) of this section.

~~(e) Initial appointments shall be made upon passage of this act, with initial terms concluding at the time new appointments to the Committee are made in January 2021.~~

~~(f) Subsequent appointments shall be made biennially at the same time as standing committees.~~

~~(g)~~(d) Meetings. The Committee shall meet immediately following the appointment of its membership to elect a chair and a vice chair and to organize and conduct its business. The Committee may meet as often as it deems necessary and a majority of the members shall constitute a quorum for the transaction of business. Meetings may be called by the Chair or by a majority of the members.

~~(h)~~(e) Compensation; reimbursement. For attending a meeting of the Committee when he or she is not receiving compensation as a member of the General Assembly, a member of the Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of standing committees under section 406 23 of this title.

§ 42. OVERSIGHT AND MANAGEMENT FUNCTIONS

(a) The Joint Legislative Management Committee shall:

(1) prepare a proposed budget for the Legislative Branch that includes a budget for each legislative office;

(2) approve requests for new, permanent positions in staff offices as appropriate, for inclusion in the proposed Legislative Branch budget;

(3) approve the reallocation of existing positions among staff offices, as appropriate;

(4) approve and adopt policies that apply across the Legislative Branch, including compensation and benefits plans, personnel policies, and policies relating to information technology; and

(5) attend to other relevant management and oversight matters.

(b) The Joint Legislative Management Committee shall have access to legal, financial, administrative, information technology, and other services from legislative offices as needed to serve the needs of the Legislative Branch.

Sec. 4. JOINT LEGISLATIVE MANAGEMENT COMMITTEE;

CONCLUSION OF INITIAL TERMS

The terms of the members appointed to the Joint Legislative Management Committee in 2019 shall conclude in January 2021 at the time the new appointments to the Committee are made.

* * * Joint Fiscal Office * * *

Sec. 5. 2 V.S.A. chapter 15 is amended to read:

CHAPTER 15. JOINT FISCAL COMMITTEE; JOINT FISCAL OFFICE

Subchapter 1. Joint Fiscal Committee

§ 501. CREATION OF COMMITTEE; PURPOSE

(a) There is created a Joint Fiscal Committee whose membership shall be appointed on or before January 15 of each biennial session of the General Assembly. The Committee shall consist of five Representatives and five Senators as follows:

(1) ~~The~~ the Chair of the House Committee on Appropriations;

(2) ~~The~~ the Chair of the House Committee on Ways and Means;

(3) ~~The~~ the Chair of the Senate Committee on Appropriations;

(4) ~~The~~ the Chair of the Senate Committee on Finance;

(5) ~~Two~~ two members of the House, ~~one from each major~~ not both from the same political party, appointed by the Speaker of the House;

(6) ~~Two~~ two members of the Senate, ~~one from each major~~ not both from the same political party, appointed by the Committee on Committees; and

(7) ~~One~~ one member of the Senate to be appointed by the Committee on Committees and one member of the House to be appointed by the Speaker.

(b) The Joint Fiscal Committee shall meet immediately following the appointment of its membership to organize and conduct its business. The Committee shall elect a chair, vice chair, and clerk and shall adopt rules of procedure. The Committee may meet at any time at the call of the Chair or a majority of the members of the Committee. A majority of the membership shall constitute a quorum.

(c) For attendance at a meeting when the General Assembly is not in session, members of the Joint Fiscal Committee shall be entitled to the same per diem compensation and reimbursement for actual and necessary expenses as provided members of standing committees under section 406 23 of this title.

§ 502. EMPLOYEES; RULES; BUDGET

~~(a) The Joint Fiscal Committee shall meet immediately following the appointment of its membership to organize and conduct its business. The Joint Fiscal Committee shall adopt rules for the operation of its personnel.~~

~~(b) The Joint Fiscal Committee shall employ such professional and secretarial staff as are required to carry out its functions and fix their compensation~~

~~(1) 3 V.S.A. chapter 13, shall not apply to employees of the Joint Fiscal Committee unless this exception is partially or wholly waived by the Joint Fiscal Committee.~~

~~(2) All requests for assistance, information, and advice and all information received in connection with fiscal research or related drafting shall be confidential unless the party requesting or giving the information designates in the request that it is not confidential. Documents, transcripts, and minutes of committee meetings, including written testimony submitted to a committee, fiscal notes and summaries which have been released or approved for printing or introduction, and material appearing in the journals or calendars of either house are official documents and shall not be confidential under this subsection.~~

~~(c) The Joint Fiscal Committee shall prepare a budget. [Repealed.]~~

§ 503. FUNCTIONS

~~(a) The Joint Fiscal Committee shall direct, supervise, and coordinate the work of its staff and secretaries.~~

~~(b) The Joint Fiscal Committee shall:~~

~~(1) furnish research services and secretarial services of a fiscal nature to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the House and Senate Committees on Transportation, and the Joint Fiscal Committee; hire the Chief Fiscal Officer;~~

~~(2) carry on a continuing review of the fiscal operations of the State, including revenues, budgeting, and expenditures;~~

~~(3) accept grants and approve any related limited service positions, gifts,~~

loans, or any other thing of value, approved by the Governor, under the provisions of 32 V.S.A. § 5, ~~when the General Assembly is not in session;~~

(4) establish prioritization for the work of the Joint Fiscal Office; and

(4)(5) keep minutes of its meetings and maintain a file thereof.

§ 504. INTERGOVERNMENTAL COOPERATION

~~For the purposes of carrying out its duties, the Joint Fiscal Committee and its staff shall have access to and the right to copy any public record of all executive, administrative, and judicial Departments of the State, except income and franchise tax returns and other documents classified as confidential by law. [Repealed.]~~

* * *

Subchapter 2. Joint Fiscal Office

§ 521. CREATION AND PURPOSE

The Joint Fiscal Office is created as a permanent agency to provide the General Assembly with services relating to the fiscal operations of the State, including revenues, budgeting, and expenditures.

§ 522. CHIEF FISCAL OFFICER; EMPLOYEES

(a)(1) The Joint Fiscal Committee shall employ an individual to be the Chief Fiscal Officer of the Joint Fiscal Office.

(2) The Chief Fiscal Officer shall employ fiscal, research, and other professional staff as needed to carry out the duties of the Joint Fiscal Office, except that requests for new, permanent positions shall be subject to the approval of the Joint Legislative Management Committee.

(b) All individuals employed by the Joint Fiscal Office shall be subject to the personnel policies adopted by the Joint Legislative Management Committee.

(c) The provisions of 3 V.S.A. chapter 13 (classification of State personnel) shall not apply to employees of the Joint Fiscal Office unless this exception is partially or wholly waived by the Joint Legislative Management Committee.

§ 523. FUNCTIONS; CONFIDENTIALITY

(a) The Joint Fiscal Office shall furnish:

(1) nonpartisan research and administrative services of a fiscal nature to the Joint Fiscal Committee and, at the direction of the Joint Fiscal Committee, to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the House and Senate

Committees on Transportation, the House Committee on Corrections and Institutions, and the Senate Committee on Institutions;

(2) nonpartisan research and administrative services of a fiscal nature to other legislative committees and members of the General Assembly, to the extent practicable; and

(3) fiscal and budget assistance to the Joint Legislative Management Committee and to the other legislative offices.

(b)(1) All requests for assistance, information, and advice from the Joint Fiscal Office, all information received in connection with fiscal research or related drafting, and all confidential materials provided to or generated by the Joint Fiscal Office shall remain confidential unless the party requesting or providing the information designates that it is not confidential.

(2) Recordings and minutes of committee meetings and material appearing in the journals or calendars of either house are official documents and materials and shall not be confidential under this subsection.

§ 524. BUDGET

The Chief Fiscal Officer shall propose a budget for the Joint Fiscal Office to the Joint Legislative Management Committee.

§ 525. INTERGOVERNMENTAL COOPERATION

For the purposes of carrying out its duties, the Joint Fiscal Office shall have access to and the right to copy any public record of all executive, administrative, and judicial Departments of the State, except income and franchise tax returns and other documents classified as confidential by law unless permitted under 32 V.S.A. § 3102.

* * * Office of Human Resources * * *

Sec. 6. 2 V.S.A. chapter 14 is added to read:

CHAPTER 14. OFFICE OF HUMAN RESOURCES

§ 461. CREATION AND PURPOSE

The Office of Human Resources is created as a permanent agency to service the members and employees of the General Assembly with nonpartisan human resources services.

§ 462. DIRECTOR; EMPLOYEES

(a) The Joint Legislative Management Committee shall employ an individual with experience and expertise in human resources management to be the Director of Human Resources. The Committee may conduct the hiring

process itself or may delegate this duty to a special hiring committee comprising an equal number of members from the House and Senate, not all of whom shall be from the same political party; however, the Joint Legislative Management Committee shall make the final hiring decision.

(b)(1) The Director of Human Resources shall employ human resources and other professional staff as needed to carry out the duties of the Office of Human Resources, except that requests for new, permanent positions shall be subject to the approval of the Joint Legislative Management Committee.

(2) All individuals employed by the Office of Human Resources shall be subject to the personnel policies adopted by the Joint Legislative Management Committee.

(3) The provisions of 3 V.S.A. chapter 13 (classification of State personnel) shall not apply to employees of the Office of Human Resources.

§ 463. FUNCTIONS

The Office of Human Resources shall provide human resources services to members of the General Assembly and legislative employees, including:

(1) developing, in consultation with the heads of the other legislative offices, compensation and benefits plans and personnel policies for legislative offices and employees for Joint Legislative Management Committee approval and providing advice, guidance, and technical assistance in the administration of these plans and policies;

(2) providing training on topics such as the prevention of harassment and discrimination, implicit bias, time management, and other workplace issues;

(3) providing job recruitment services to other legislative offices;

(4) providing performance evaluation services to other legislative offices;

(5) providing advice and guidance to legislative employees, supervisors, and members of the General Assembly regarding labor and employment laws, policies, and practices;

(6) coordinating legislative internship opportunities, including registering legislative interns and developing and implementing internship policies and procedures; and

(7) developing processes for investigating and resolving disputes and other interpersonal issues involving members of the General Assembly or legislative employees, or both;

(8) investigating and resolving, and providing guidance and assistance with investigating and resolving, employee disputes and other personnel matters; and

(9) providing guidance and assistance with investigating and resolving conflicts involving members of the General Assembly.

§ 464. BUDGET

The Director of Human Resources shall propose a budget for the Office of Human Resources to the Joint Legislative Management Committee.

§ 465. INTERGOVERNMENT COOPERATION

For the purposes of carrying out its duties, the Office of Human Resources shall have access to and the right to copy any public record of all executive, administrative, and judicial departments of the State, except income and franchise tax returns and other documents classified as confidential by law.

* * * Office of Legislative Operations * * *

Sec. 7. 2 V.S.A. chapter 16 is added to read:

CHAPTER 16. OFFICE OF LEGISLATIVE OPERATIONS

§ 551. CREATION AND PURPOSE

The Office of Legislative Operations is created as a permanent agency to serve the members and employees of the General Assembly with nonpartisan operational, financial, committee support, and other administrative services and to support the Joint Legislative Management Committee.

§ 552. DIRECTOR; EMPLOYEES

(a) The Joint Legislative Management Committee shall employ an individual with experience and expertise in administration or management to be the Director of Legislative Operations. The Committee may conduct the hiring process itself or it may delegate this duty to a special hiring committee comprising an equal number of members from the House and Senate, not all of whom shall be from the same political party; however, the Joint Legislative Management Committee shall make the final hiring decision.

(b)(1) The Director of Legislative Operations shall employ administrative, committee services, and other professional staff as needed to carry out the duties of the Office of Legislative Operations, except that requests for new, permanent positions shall be subject to the approval of the Joint Legislative Management Committee.

(2) All individuals employed by the Office of Legislative Operations

shall be subject to the personnel policies adopted by the Joint Legislative Management Committee.

(3) The provisions of 3 V.S.A. chapter 13 (classification of State personnel) shall not apply to employees of the Office of Legislative Operations.

§ 553. FUNCTIONS

The Office of Legislative Operations shall provide:

(1) administrative support to the Joint Legislative Management Committee;

(2) administrative support to other standing and interim legislative committees;

(3) payroll, billing, and expense reimbursement services to members of the General Assembly and, as needed, to other legislative offices and legislative employees; and

(4) other administrative and operational services as needed to support members of the General Assembly, legislative offices, and legislative employees.

§ 554. BUDGET

The Director of Legislative Operations shall propose a budget for the Office of Legislative Operations to the Joint Legislative Management Committee.

§ 555. INTERGOVERNMENTAL COOPERATION

For the purposes of carrying out its duties, the Office of Legislative Operations shall have access to and the right to copy any public record of all executive, administrative, and judicial departments of the State, except income and franchise tax returns and other documents classified as confidential by law.

* * * Office of Legislative Information Technology * * *

Sec. 8. 2 V.S.A. chapter 21 is added to read:

CHAPTER 21. OFFICE OF LEGISLATIVE INFORMATION TECHNOLOGY

§ 701. CREATION AND PURPOSE

The Office of Legislative Information Technology is created as a permanent agency to serve the members and employees of the General Assembly with information technology resources and nonpartisan technology-related services.

§ 702. DIRECTOR; EMPLOYEES

(a) The Joint Legislative Management Committee shall employ an individual with experience and expertise in information technology to be the Director of Legislative Information Technology. The Committee may conduct the hiring process itself or it may delegate this duty to a special hiring committee comprising an equal number of members from the House and Senate, not all of whom shall be from the same political party; however, the Joint Legislative Management Committee shall make the final hiring decision.

(b)(1) The Director shall employ additional information technology staff as needed to carry out the duties of the Office of Legislative Information Technology, except that requests for new, permanent positions shall be subject to the approval of the Joint Legislative Management Committee.

(2) All individuals employed by the Office of Legislative Information Technology shall be subject to the personnel policies adopted by the Joint Legislative Management Committee.

(3) The provisions of 3 V.S.A. chapter 13 (classification of State personnel) shall not apply to employees of the Office of Legislative Information Technology unless this exception is partially or wholly waived by the Joint Legislative Management Committee.

§ 703. FUNCTIONS

The Office of Legislative Information Technology shall:

(1) design, support, and maintain the General Assembly's information systems;

(2) provide hardware, software, and customer support to members and employees of the General Assembly to enable them to fulfill their professional responsibilities; and

(3) ensure that legislative records created, received, stored, or transmitted using information technology are maintained in accordance with the General Assembly's recordkeeping requirements.

§ 704. STRATEGIC PLAN FOR LEGISLATIVE INFORMATION

TECHNOLOGY

(a) The Director of Legislative Information Technology shall prepare, maintain, and update, at least biennially, a long-range strategic plan for information technology operations and services in the Legislative Branch.

(b) In preparing the plan, the Director or designee shall consult with members of the Joint Information Technology Oversight Committee, other members of the General Assembly, and employees of other legislative staff

offices. In addition, the Director or designee may also consult with the State Archivist, representatives of the Executive and Judicial Branches, and members of the public.

(c) The strategic plan shall be subject to review and approval by the Joint Legislative Management Committee.

§ 705. BUDGET

The Director of Legislative Information Technology shall propose a budget for the Office of Legislative Information Technology to the Joint Legislative Management Committee.

Sec. 9. 2 V.S.A. § 614 is amended to read:

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

(a) Creation. There is created the Joint Information Technology Oversight Committee to oversee investments in and use of information technology in Vermont and to provide periodic advice on legislative information technology issues.

* * *

(c) Powers and duties.

(1) The Committee shall oversee, evaluate, and make recommendations on the following:

(1)(A) the State's current deployment, management, and oversight of information technology in the furtherance of State governmental activities, including data processing systems, telecommunications networks, and related technologies, particularly with regard to issues of compatibility among existing and proposed technologies;

(2)(B) issues related to the storage of, maintenance of, access to, privacy of, and restrictions on use of computerized records;

(3)(C) issues of public policy related to the development and promotion of the private, commercial, and nonprofit information infrastructure in the State, its relationship to the State government information infrastructure, and its integration with national and international information networks; and

(4)(D) cybersecurity.

(2) The Committee may provide advice to the Director of Legislative Information Technology and the Joint Legislative Management Committee as appropriate regarding matters related to legislative information technology.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative ~~Council~~ Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

* * *

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to section 406 23 of this title.

* * * Redesignations * * *

Sec. 10. 29 V.S.A. chapter 6 is amended to read:

CHAPTER 6. CAPITOL COMPLEX COMMISSION

Subchapter 1. Capitol Complex Commission

§ 181. PURPOSE

* * *

Subchapter 2. Capitol Complex; Parking

* * *

Sec. 11. REDESIGNATIONS

(a) 2 V.S.A. § 71 (parking) is redesignated as 29 V.S.A. § 191 in 29 V.S.A. chapter 6, subchapter 2.

(b) 2 V.S.A. § 406 (standing committees; authority to meet; out-of-state business) is redesignated as 2 V.S.A. § 23.

(c) 2 V.S.A. § 505 (basic needs budget and livable wage; report) is redesignated as 2 V.S.A. § 526.

(d) 2 V.S.A. § 754 (contracts for Internet service) is redesignated as 2 V.S.A. § 705.

* * * Conforming Revisions * * *

Sec. 12. CONFORMING REVISIONS

When preparing the cumulative supplements and replacement volumes of the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall make the following revisions to these supplements and volumes as needed for consistency with this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Legislative Council” and “Office of Legislative Council”

with “Legislative Counsel” and “Office of Legislative Counsel” as appropriate;

(2) replace references to 2 V.S.A. § 406 (standing committees; authority to meet; out-of-state business) with 2 V.S.A. § 23 to reflect the redesignation of 2 V.S.A. § 406 pursuant to Sec. 11(b) of this act; and

(3) replace references to 2 V.S.A. § 505 (basic needs budget and livable wage; report) with 2 V.S.A. § 526 to reflect the redesignation of 2 V.S.A. § 505 pursuant to Sec. 11(c) of this act.

Sec. 13. 2 V.S.A. § 21(c) is amended to read:

(c) Official documents, as defined in ~~subsection 404(e)~~ subdivision 403(b)(2) of this title, shall be admissible under V.R.C.P. 44.

Sec. 14. 2 V.S.A. § 693(a) is amended to read:

(a) The Committee shall have the administrative, technical, and legal assistance of the ~~Legislative Council~~ Office of Legislative Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

Sec. 15. 2 V.S.A. § 801(f) is amended to read:

(f) The professional and clerical services of the Joint Fiscal Office, ~~the Office of Legislative Operations,~~ and the Office of Legislative ~~Council~~ Counsel shall be available to the Committee.

Sec. 16. 2 V.S.A. § 970(f) is amended to read:

(f) The staff services of the Joint Fiscal Office, ~~the Office of Legislative Operations,~~ and the Office of the Legislative ~~Council~~ Counsel shall be available to the Committee.

Sec. 17. 3 V.S.A. § 23(e) is amended to read:

(e) Staff services. The Commission shall be entitled to staff services of the Agency of Commerce and Community Development, the ~~Legislative Council~~ Office of Legislative Counsel, the Office of Legislative Operations, and the Joint Fiscal ~~Committee~~ Office.

Sec. 18. 3 V.S.A. § 268(d) is amended to read:

(d) Assistance. The Commission shall have the administrative, technical, and legal assistance of the ~~Office of Legislative Council~~ Counsel, the Office of Legislative Operations, the Joint Fiscal Office, and the Agency of Administration.

Sec. 19. 3 V.S.A. § 311(a) is amended to read:

(a) The classified service to which this chapter shall apply shall include all positions and categories of employment by the State, except as otherwise

provided by law, and except the following:

(1) ~~The State Legislature~~ General Assembly and its employees and other officers elected by popular vote or by vote of the ~~Legislature~~ General Assembly and persons appointed to fill vacancies in elective offices.

(2) Members of boards and commissions and heads of departments or agencies appointed by the Governor, or with his or her approval.

(3) One principal or executive assistant, one deputy to the head of a department or agency, one private secretary, and one executive director for each board or commission or head of a department or agency elected or appointed by the Governor or ~~Legislature or Legislative Council~~ General Assembly. However, nothing ~~contained herein~~ in this subdivision shall be construed so as to prevent a board, commission, or director or head of a department or agency from designating a classified employee to perform the duties of a principal assistant, deputy, executive director, or private secretary.

* * *

Sec. 20. 3 V.S.A. § 817(b) is amended to read:

(b) The Committee shall meet as necessary for the prompt discharge of its duties and may use the staff and services of the ~~Legislative Council~~ Office of Legislative Counsel and the Office of Legislative Operations. The Committee shall adopt rules to govern its operation and organization. A quorum of the Committee shall consist of five members. For attendance at a meeting when the General Assembly is not in session, members of the Legislative Committee on Administrative Rules shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of standing committees under 2 V.S.A. § ~~406~~ 23.

Sec. 21. 4 V.S.A. § 4(d) is amended to read:

(d) The Court Administrator shall notify the Secretary of State whenever a Justice is appointed and takes the oath of office after September 1 of the year preceding the expiration of the term of office to which the Justice has succeeded thereby resulting in automatic notification of an intention to continue in office. Whenever a Justice files a declaration under subsection (c) of this section, or notification occurs automatically, the Secretary of State shall notify the President of the Senate, the Speaker of the House, the Office of Legislative Counsel, and the ~~Legislative Council~~ Office of Legislative Operations forthwith.

Sec. 22. 4 V.S.A. § 71(c) is amended to read:

(c) The Court Administrator shall notify the Secretary of State whenever a

Superior judge is appointed and takes the oath of office after September 1 of the year preceding the expiration of the term of office to which the judge has succeeded, thereby resulting in automatic notification of an intention to continue in office. Whenever a Superior judge files a declaration under subsection (b) of this section or notification occurs automatically, the Secretary of State shall notify the President of the Senate, the Speaker of the House, the Office of Legislative Counsel, and the ~~Legislative Council~~ Office of Legislative Operations forthwith.

Sec. 23. 4 V.S.A. § 461(c)(3) is amended to read:

(3) The Court Administrator shall notify the Secretary of State whenever a magistrate is appointed and takes the oath of office after September 1 of the year preceding the expiration of the term of office to which the magistrate has succeeded, thereby resulting in automatic notification of an intention to continue in office. Whenever a magistrate files a declaration under subsection (a) of this section or when notification occurs automatically, the Secretary of State shall notify the President of the Senate, the Speaker of the House, the Office of Legislative Counsel, and the ~~Legislative Council~~ Office of Legislative Operations forthwith.

Sec. 24. 4 V.S.A. § 601(f) is amended to read:

(f) The Board is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants. The Office of Legislative ~~Council~~ Counsel shall assist the Board for the purpose of rulemaking.

Sec. 25. 4 V.S.A. § 607(c) is amended to read:

(c) The Committee may use the staff and services of the ~~Legislative Council~~ Office of Legislative Counsel and the Office of Legislative Operations to, in addition to other duties, obtain information on the performance of a judge or Justice by soliciting comments from members of the Vermont Bar and the public.

Sec. 26. 12 V.S.A. § 3(b) is amended to read:

(b) The Committee shall meet as necessary for the prompt discharge of its duties and may use the staff and services of the ~~Legislative Council~~ Office of Legislative Counsel and the Office of Legislative Operations. The Committee shall adopt rules to govern its operation and organization. A quorum of the Committee shall consist of five members. For attendance at a meeting when the General Assembly is not in session, members of the Legislative Committee on Judicial Rules shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of standing

committees under 2 V.S.A. § 406 23.

Sec. 27. 16 V.S.A. § 2905(e) is amended to read:

(e) The legislative and higher education staff shall provide support to the Council as appropriate to accomplish its tasks. Primary administrative support shall be provided by the Office of Legislative ~~Council~~ Operations.

Sec. 28. 19 V.S.A. § 12b(b) is amended to read:

(b) The Committee shall meet during adjournment for official duties. Meetings shall be convened by the Chair and when practicable shall be coordinated with the regular meetings of the Joint Fiscal Committee. Members shall be entitled to compensation and reimbursement pursuant to 2 V.S.A. § 406 23. The Committee shall have the assistance of the staff of the Office of Legislative ~~Council~~ Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

Sec. 29. 29 V.S.A. § 1160(c) is amended to read:

(c) Five copies of the permanent journals of the Senate and of the House of Representatives of each biennial and adjourned session shall be distributed to ~~the Legislative Council and to the Secretary of State. One copy of the permanent journals of the Senate and of the House of Representatives of each biennial and adjourned session shall be distributed to the Office of Legislative~~ Counsel.

Sec. 30. 32 V.S.A. § 1052(b)(3) is amended to read:

(3) Absences. If a member is absent for reasons other than sickness or legislative business for one or more entire days while the ~~House~~ house in which the member sits is in session, the member shall notify the ~~Legislative Council staff~~ Office of Legislative Operations of that absence, and expenses received shall not include the amount ~~which~~ that the legislator specifies was not incurred during the period of that absence.

Sec. 31. 33 V.S.A. § 1901a(b) is amended to read:

(b) The Secretary of Human Services or his or her designee and the Commissioner of Finance and Management shall provide quarterly to the Joint Fiscal Committee ~~and the Legislative Council~~ such information and analysis as the Committee ~~and the Council~~ reasonably ~~determine~~ determines is necessary to assist the General Assembly in the preparation of the Medicaid budget.

* * * Transitional Provision * * *

Sec. 32. CONTINUATION OF EXISTING RULES AND POLICIES

The Joint Legislative Management Committee shall continue to apply the

rules and policies of the Joint Rules Committee, the Legislative Council Committee, the Joint Fiscal Committee, and the Legislative Information Technology Committee that are in effect on the effective date of this act and that govern the operations of the respective legislative offices until the Joint Legislative Management Committee’s adoption of rules and policies to govern the operations of those offices in accordance with the provisions of this act.

* * * Repeals * * *

Sec. 33. REPEAL

2 V.S.A. chapter 22 (Legislative Information Technology Committee) is repealed.

* * * Effective Date * * *

Sec. 34. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 6-0-1)

H. 794

An act relating to limiting liability for agritourism

Rep. Strong of Albany, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. chapter 212 is added to read:

CHAPTER 212. LIMITATION ON LIABILITY FOR AGRITOURISM
ACTIVITY

§ 5871. DEFINITIONS

As used in this chapter:

(1)(A) “Agritourism activity” means an interactive or passive activity that is:

(i) carried out with or without payment to an agritourism host on a farm regulated under 6 V.S.A. chapter 215, related to farming, food production, historic tradition, or nature watching; or

(ii) conducted by an agritourism host for the education, entertainment, or recreation of participants.

(B) “Agritourism activity” includes a farming activity; the viewing of a historic, cultural, or natural attraction; a pick-your-own activity; nature watching; and an activity involving an animal exhibition at an agricultural fair.

(C) “Agritourism activity” does not include a roadside farm stand or operation exclusively devoted to the sale of merchandise or food at retail.

(2) “Agritourism host” means a person who provides the facilities and equipment necessary to participate in an agritourism activity.

(3) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria established by the Required Agricultural Practices.

(4) “Farming” has the same meaning as in 10 V.S.A. § 6001.

(5) “Inherent risk” means any danger or condition that is an integral part of, or arises from, an agritourism activity, including:

(A) the propensity of a wild animal or domestic animal to behave in ways that may result in injury or death to persons on or near the wild animal or domestic animal;

(B) a hazard such as a surface or subsurface condition;

(C) a natural condition of land, vegetation, or waters;

(D) the ordinary dangers of structures or equipment used in farming;

and

(E) the potential of a participant to act in a negligent way that may contribute to injury or death to the participant or others, such as failing to follow safety procedures or failing to act with reasonable caution while engaging in an agritourism activity.

(6) “Participant” means any person who is invited onto the farm for the purpose of participating in an agritourism activity.

§ 5872. LIMITATION ON DUTY TO PROTECT

(a) Except as provided in subsection (b) of this section, an agritourism host shall not have a legal duty to protect a participant from the inherent risks of an agritourism activity and shall not be liable for injury to or death of a participant resulting from the inherent risks of an agritourism activity, provided that the agritourism host posts the warning required under section 5873 of this title.

(b) Nothing in subsection (a) of this section shall limit the liability of an agritourism host who:

(1) commits a negligent act or omission concerning the safety of a participant that proximately causes injury or death to the participant;

(2) has actual knowledge of:

(A) a dangerous condition on the land, facilities, or equipment used in the activity, or

(B) the dangerous propensity of an animal used in the activity, which proximately causes injury or death to the participant, and does not make that danger known to the participant;

(3) intentionally injures a participant; or

(4) commits any other act, error, or omission that constitutes willful or wanton misconduct, negligence, or criminal conduct that proximately causes injury or death to the participant.

(c) Any limitation on liability afforded by this section to an agritourism host is in addition to any other limitations on liability otherwise provided by law.

§ 5873. WARNING NOTICE; POSTING; CONTRACTS

(a) To qualify for the limitation on liability under section 5872 of this title:

(1) an agritourism host shall post and maintain a sign in a clearly visible location at or near the main entrance to each agritourism activity and in black letters at least one inch in height containing the warning notice specified in subsection (b) of this section; and

(2) every written contract entered into between an agritourism host and a participant for goods or services related to an agritourism activity shall contain in clearly visible print the warning notice specified in subsection (b) of this section.

(b) The warning notice required under subsection (a) of this section shall read: “WARNING: Under Vermont law, an agritourism host is not liable for the injury or death of a participant in an agritourism activity resulting from the inherent risk of the agritourism activity. Inherent risks include the risk of animals, weather, land conditions, and the potential for you as a participant to act in a negligent way that may contribute to your own injury or death. You are assuming the risk of participating in this agritourism activity.”

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 8-0-0)

Favorable

H. 728

An act relating to the miscellaneous changes affecting the duties of the

Department of Vermont Health Access

Rep. Page of Newport City, for the Committee on Health Care, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of February 27, 2020.

H.C.R. 266

House concurrent resolution in memory of former Highgate School Board member David F. Roddy

H.C.R. 267

House concurrent resolution honoring Barbara Wagner of Bridport

H.C.R. 268

House concurrent resolution recognizing June 12, 2020 as National Loving Day in Vermont

H.C.R. 269

House concurrent resolution honoring Eric Nye of Georgia

H.C.R. 270

House concurrent resolution in memory of former Representative, Senator, and Commissioner of Employment and Training Sarah Goodwin (Thompson) Soule of Shelburne

H.C.R. 271

House concurrent resolution congratulating the 2019 Rice Memorial High School Green Knights Division II championship girls' soccer team

H.C.R. 272

House concurrent resolution honoring Weybridge Selectboard Chair Don Mason for his outstanding municipal public service

H.C.R. 273

House concurrent resolution honoring Barbara Torian and Tim Bouton of New Haven for their outstanding civic service

H.C.R. 274

House concurrent resolution recognizing July 2020 as Parks and Recreation Month in Vermont and designating July 17, 2020 as Vermont Park and Recreation Professionals' Day

H.C.R. 275

House concurrent resolution designating Wednesday, March 11, 2020 as the 26th Early Childhood Day at the State House

H.C.R. 276

House concurrent resolution in memory of Peter Saltonstall Mallett of Georgia

H.C.R. 277

House concurrent resolution honoring the distinguished military career of former Vermont Adjutant General Herbert Thomas Johnson of Bradford

H.C.R. 278

House concurrent resolution honoring former Representative Richard James Howrigan of Fairfield

H.C.R. 279

House concurrent resolution congratulating Ian Carpenter of Fairfax on being named the 2019 Special Olympics Vermont Unified Athlete of the Year

H.C.R. 280

House concurrent resolution honoring Frank Snow of Bennington

H.C.R. 281

House concurrent resolution congratulating Elinor Purrier of Montgomery on her record-setting pace at the 2020 Wanamaker Mile in New York City

H.C.R. 282

House concurrent resolution remembering former Rutland City Board of Aldermen President David Sagi on Disability Awareness Day

H.C.R. 283

House concurrent resolution congratulating Weidmann Electrical Technology

Inc. on the 50th anniversary of its St. Johnsbury plant

H.C.R. 284

House concurrent resolution honoring Euclid Farnham for his extraordinary legacy in the Town of Tunbridge

H.C.R. 285

House concurrent resolution honoring John McCullough and Donna Fitch for their leadership in the renovation of the Calais Town Hall

H.C.R. 286

House concurrent resolution honoring former Representative Linda J. Martin for her service as Wolcott Town Clerk and Treasurer

For Informational Purposes

CROSSOVER 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 13, 2020, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by Friday March 13, 2020.

(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 20, 2020, 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 (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills.

Public Hearings

PUBLIC HEARING

Held by the Senate Education Committee on the subject of a **Pupil Weighting Study, Wednesday, March 11, 2020, 4-6 P.M. in Room 11.** Clerk of the Committee: Senator Debbie Ingram; Committee Assistant: Jeannie Lowell.

