

House Calendar

Wednesday, June 17, 2020

163rd DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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ACTION CALENDAR

Unfinished Business of Monday, June 1, 2020

Favorable with Amendment

H. 946

An act relating to approval of the adoption of the charter of the Town of Elmore

Rep. Mrowicki of Putney, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Rep. Donovan of Burlington, for the Committee on Ways and Means, recommends the bill be amended as follows:

In Sec. 2, 24 App. V.S.A. chapter 114G, in section 1, in subsection (c), by striking out the word “Revenues” and inserting in lieu thereof “The Town’s share of the revenues”

(Committee Vote: 10-1-0)

Unfinished Business of Tuesday, June 9, 2020

Senate Proposal of Amendment

H. 438

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

The Senate proposes to the House to amend the bill by striking out 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;

(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 complaint; 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 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 term, (originally or to fill a vacancy), 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, the Board may inquire directly of the Vermont Crime Information Center, the Federal Bureau of Investigation, the National Crime Information Center, or other holders of official criminal record information, and may arrange for these inquiries to be made by a commercial service.

(B) Prior to acting on an initial or renewal application, the Board may obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Federal Bureau of Investigation background checks shall be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Board of future triggering events. Each applicant shall consent to the release of criminal history records to the Board on forms developed by the Vermont Crime Information Center.

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

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

(E) 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 the 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.

(d) Any monies received from nondisciplinary financial penalties imposed pursuant to this section 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.

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.]~~

* * *

§ 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 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.

§ 1400. RENEWAL OF LICENSE; CONTINUING MEDICAL EDUCATION

(a) Every person licensed to practice medicine by the Board shall apply biennially for the renewal of his or her license. At least one month prior to the date on which renewal is required, the Board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee. The Board shall register the applicant and issue the renewal license. Within one month following the date renewal is required, the Board shall pay the license renewal fees into the Medical Practice Board Special Board of Medical Practice Regulatory Fee Fund.

* * *

(f) A person who practices medicine and who fails to renew his or her license in accordance with the provisions of this section shall be deemed an illegal practitioner and shall forfeit the right to so practice or to hold himself or herself out as a person licensed to practice medicine in the State until reinstated by the Board, but nevertheless except that a physician while on extended active duty in the uniformed services of the United States or as a member of the National Guard, State Guard, or reserve component as a member of the U.S. Armed Forces, a reserve component of the U.S. Armed Forces, the National Guard, or the State Guard who is licensed as a physician at the time of an activation or deployment shall receive an extension of licensure up to 90 days following the physician's return from activation or deployment, provided the physician notifies the Board of his or her activation or deployment prior to the expiration of the current license and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license.

* * *

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 is amended to read:

§ 373. RENEWAL OF LICENSURE

(a) A person licensed by the Board to practice podiatry shall apply biennially for the renewal of his or her license. At least one month prior to the date on which renewal is required, the Board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee; however, any podiatrist while on extended active duty ~~in the uniformed services of the United States or as a member of the National Guard, State Guard, or reserve component~~ as a member of the U.S. Armed Forces, a reserve component of the U.S. Armed Forces, the National Guard, or the State Guard who is licensed as a podiatrist at the time of an activation or deployment shall receive an extension of licensure up to 90 days following the podiatrist's return from activation or deployment, provided the podiatrist notifies the Board of his or her activation or deployment prior to the expiration of the current license and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license. The Board shall register the applicant and issue the renewal license. Within one month following the date by which renewal is required, the Board shall pay the license renewal fees into the ~~Medical Practice Board Special~~ Board of Medical Practice Regulatory Fee Fund.

(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.

* * * Revisions to Maintenance of Licensure Rulemaking Requirement * * *

Sec. 7. 2011 Acts and Resolves No. 61, Sec. 10 is amended to read:

Sec. 10. ADOPTION OF RULES

The state board of medical practice ~~shall~~ may adopt maintenance of licensure rules for podiatrists, physicians, and physician assistants ~~by September 1, 2012.~~

* * * Effective Dates * * *

Sec. 8. 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), 6 (18 V.S.A. § 4211), 7 (adoption of rules), 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.

(For text see House Journal March 10, 2020, page 579)

Senate Proposal of Amendment

H. 788

An act relating to technical corrections for the 2020 legislative session

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 272, 26 V.S.A. § 373(a), in its entirety and inserting in lieu thereof the following:

Sec. 272. [Deleted.]

Second: By striking out Sec. 275, 26 V.S.A. § 1400(f), in its entirety and inserting in lieu thereof the following:

Sec. 275. [Deleted.]

Third: By striking out Sec. 277, 26 V.S.A. § 1734b(a), in its entirety and inserting in lieu thereof the following:

Sec. 277. [Deleted.]

Fourth: In Sec. 304, effective dates, preceding “(amending 2014 Acts and Resolves No. 131, Sec. 135, as amended)” by striking out “Sec. 300” and inserting in lieu thereof Sec. 299

(For text see House Journal March 12, 2020, page 683)

Unfinished Business of Wednesday, June 10, 2020

Third Reading

H. 833

An act relating to the interbasin transfer of surface waters

Favorable with Amendment

H. 99

An act relating to trade in covered animal parts or products

Rep. McCullough of Williston, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. part 4, chapter 124 is added to read:

CHAPTER 124. TRADE IN COVERED ANIMAL PARTS OR PRODUCTS

§ 5501. DEFINITIONS

As used in this chapter:

(1) “Bona fide educational or scientific institution” means an institution that establishes through documentation that it is a tax-exempt institution under the Internal Revenue Service’s educational or scientific tax exemption.

(2) “Covered animal” means any species of:

(A) Cheetah (Acinonyx jubatus);

(B) Elephant (family Elephantidae);

(C) Giraffe (Giraffa camelopardalis) ;

(D) Hippopotamus (family Hippopotamidae);

(E) Jaguar (Panthera onca);

(F) Leopard (Panthera pardus);

(G) Lion (Panthera leo);

(H) Mammoth (genus Mammuthus);

(I) Mastodon (genus Mammut),

(J) Pangolin (family Manidae);

(K) Endangered ray, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(L) Rhinoceros (family Rhinocerotidae);

(M) Sea turtle (family Chelonioidea);

(N) Endangered shark, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(O) Tiger (Panthera tigris);

(P) Whale (families Balaenidae, Balaenopteridae, Cetotheriidae, Eschrichtiidae, Monodontidae, Physeteridae, Kogiidae, and Ziphiidae); or

(Q) The following primates: gorillas, bonobos, orangutans, gibbons, or chimpanzees.

(3) "Commissioner" means the Commissioner of Fish and Wildlife.

(4) "Covered animal part or product" means any item that contains, or is wholly or partially made from, a covered animal, including the meat or flesh of a covered animal sold as food.

(5) "Firearm" has the same meaning as in 13 V.S.A. § 4016(a)(3).

(6) "Sale" or "sell" means any act of selling, trading, or bartering for monetary or nonmonetary consideration, and includes any transfer of ownership that occurs in the course of a commercial transaction. "Sale" or "sell" shall not include a nonmonetary transfer of ownership by way of gift, donation, or bequest.

(7) "Secretary" means the Secretary of Natural Resources.

(8) "Total value" means either the fair market value or the actual price paid for a covered animal part or product, whichever is greater.

§ 5502. PROHIBITION

Except as provided in this chapter, notwithstanding any other provision of law to the contrary, a person shall not purchase, sell, offer for sale, or possess with intent to sell any item that the person knows or should know is a covered animal part or product.

§ 5503. EXCEPTIONS

(a) The prohibition on the purchase, sale, offer for sale, or possession with intent to sell set forth in section 5502 of this title shall not apply:

(1) to employees or agents of the federal or State government undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law;

(2) when the activity is expressly authorized by federal law;

(3) when the covered animal part or product is a fixed component of an antique that is not made wholly or partially from the covered animal part or product, provided that:

(A) the antique status is established by the owner or seller of the covered animal part or product with documentation providing evidence of the provenance of the covered animal part or product and showing the covered animal part or product to be not less than 100 years old; and

(B) the total weight of the covered animal part or product is less than

200 grams;

(4) when the covered animal part or product is a fixed component of a firearm; knife; or musical instrument, including string instruments and bows, wind and percussion instruments, and pianos, provided that the covered animal part or product was legally acquired and provided that the total weight of the covered animal part or product is less than 200 grams; or

(5) the activity is authorized under section 5504 of this title.

(b) Documentation evidencing reasonable provenance or the age of a covered animal part or product that may be purchased, sold, offered for sale, or possessed under subsection (a) of this section may include receipts of purchase, invoices, bills of sale, prior appraisals, auction catalogues, museum or art gallery exhibit catalogues, and the signed certification of an antique appraiser to the age of the covered animal part. The issuance of a false or fraudulent certification of the age of a covered animal part or product shall be subject to penalty under section 5506 of this title.

§ 5504. EDUCATIONAL OR SCIENTIFIC USE

The Secretary may permit, under terms and conditions as the Secretary may require, the purchase, sale, offer for sale, or possession with intent to sell of any covered animal part or product for educational or scientific purposes by a bona fide educational or scientific institution unless the activity is prohibited by federal law, and provided that the covered animal part or product was legally acquired.

§ 5505. PRESUMPTION OF POSSESSION WITH INTENT TO SELL

There shall be a rebuttable presumption that a person possesses a covered animal part or product with intent to sell when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling similar items. This rebuttable presumption shall not preclude a court from finding intent to sell a covered animal part or product based on any other evidence that may serve to independently establish intent.

§ 5506. ADMINISTRATIVE PENALTIES; REFERRAL FOR CRIMINAL ENFORCEMENT

(a) The Secretary may assess the following administrative penalties for a violation of a provision of this chapter:

(1) For a first offense, a person shall be assessed an administrative penalty of not more than \$1,000.00 nor less than \$400.00.

(2) For a second offense or subsequent offense, a person shall be

assessed an administrative penalty of not more than \$4,000.00 nor less than \$2,000.00.

(b) Instead of bringing an environmental enforcement action for a violation of this chapter or rules adopted under this chapter, the Secretary may refer a violation of this chapter to the Commissioner of Fish and Wildlife for criminal enforcement under section 4518 of this title.

§ 5507. SEIZURE.

A person convicted of violating a provision of this chapter shall forfeit to the Secretary the covered animal part or product that is the subject of the violation. The Secretary may:

(1) authorize that the covered animal part or product be maintained for educational or training purposes;

(2) authorize that the covered animal part or product be donated to a bona fide educational or scientific institution; or

(3) require that the covered animal part or product be destroyed.

§ 5508. RULES

The Secretary may adopt rules necessary to implement the requirements of this chapter.

Sec. 2. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS; THREATENED AND ENDANGERED SPECIES; SUSPENSION; VIOLATIONS

Whoever violates a provision of this part or orders or rules of the Board relating to taking, possessing, transporting, buying, or selling of big game ~~or~~, relating to threatened or endangered species, or relating to the trade in covered animal parts or products shall be fined not more than \$1,000.00 nor less than \$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, the violator shall be fined not more than \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 60 days, or both.

Sec. 3. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to

subdivision (10) of this subsection:

* * *

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species;

* * *

(29) 10 V.S.A. § 1420, relating to abandoned vessels; ~~and~~

(30) 3 V.S.A. § 2810, relating to interim environmental media standards; and

(31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts or products.

Sec. 4. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(V) chapter 124 (trade in covered animal parts or products).

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on January 1, 2022.

(Committee Vote: 7-4-0)

H. 581

An act relating to the funding of the Department of Fish and Wildlife

Rep. Squirrell of Underhill, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. VERMONT WORKING GROUP ON WILDLIFE FUNDING;

REPORT

(a) Findings. The General Assembly finds that:

(1) It is the policy of the State that the Commissioner of Fish and

Wildlife is required to safeguard the fish, wildlife, and fur-bearing animals of the State for all of the people of the State.

(2) The duties and responsibilities of the Department have grown since the days of focusing primarily on deer herd management and now include management of all wildlife species, including game and non-game; law enforcement; monitoring and restoring threatened and endangered species; habitat conservation; technical assistance; regulatory review; educational programs for hunters, youths, and teachers; public license sales; and management of grants issued or received by the Department.

(3) Since 1985, resident hunting license sales have decreased by 56 percent, resident trapping license sales have decreased by 51 percent, and resident fishing license sales have decreased by 25 percent.

(4) As a result of declining license and fee revenue, the General Assembly has increased and may need to further increase the amount of General Fund dollars annually appropriated to the Department of Fish and Wildlife.

(5) The need for increased funding of the Department will be heightened by the increased research, monitoring, and interventions required by new, contemporary, and well-documented challenges to all wildlife in Vermont, such as climate change, pollution, invasive species, and habitat degradation.

(6) To address declining license and permit fee revenue, the State must find stable, long-term revenue sources to pay for the costs of the Department of Fish and Wildlife conserving and managing fish, wildlife, and fur-bearing animals of the State and the natural systems upon which they depend for all of the people of the State.

(b) Creation of Working Group. Based on the findings set forth in subsection (a) of this section, there is created the Vermont Working Group on Wildlife Funding to identify potential sources of revenue to fund the Department of Fish and Wildlife for the next 20 years.

(c) Membership. The Vermont Working Group on Wildlife Funding shall be composed of the following members:

(1) three current members of the House of Representatives, who shall be appointed by the Speaker of the House and who shall include:

(A) the Chair of the Committee on Natural Resources, Fish, and Wildlife or designee;

(B) the Chair of the Committee on Appropriations or designee; and

(C) the Chair of the Committee on Government Operations or designee; and

(2) three current members of the Senate, who shall be appointed by the Committee on Committees and who shall include:

(A) the Chair of the Committee on Natural Resources and Energy or designee;

(B) the Chair of the Committee on Appropriations or designee; and

(C) a member of the Senate at large.

(d) Powers and duties. The Vermont Working Group on Wildlife Funding shall review and analyze the funding, management, and policies of the Department of Fish and Wildlife (Department) under statute and rule, and shall:

(1) Assess how the principles and priorities for the conservation and management of fish, wildlife, and fur-bearing animals and the natural systems upon which they depend will impact sources and amounts of funding needed by the Department for the next 20 years. The assessment shall:

(A) address the stability of all current Department funding streams going forward;

(B) estimate revenues and identify new and existing revenue sources and other resources needed for new and additional programs at the Department; and

(C) consider equitability when evaluating potential revenue sources.

(2) Recommend how the Department can create and maintain stable and adequate funding for the next 20 years.

(e) Assistance. The Vermont Working Group on Wildlife Funding shall have the administrative, technical, and legal assistance of the Office of Legislative Council. The Working Group shall have the assistance of the Joint Fiscal Office on fiscal issues and the assistance of the Department of Fish and Wildlife on issues related to the jurisdiction of the Department.

(f) Report. On or before January 1, 2021, the Vermont Working Group on Wildlife Funding shall report to the House Committees on Natural Resources, Fish, and Wildlife, on Appropriations, and on Government Operations and the Senate Committees on Natural Resources and Energy, on Appropriations, and on Government Operations with its findings and any recommendations for legislative action.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Vermont Working Group on Wildlife Funding to occur on or before July 1, 2020.

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

(3) A majority of the membership of the Vermont Working Group on Wildlife Funding shall constitute a quorum.

(4) The Vermont Working Group on Wildlife Funding shall cease to exist on February 1, 2021.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Vermont Working Group on Wildlife Funding serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-0-2)

H. 783

An act relating to recovery residences

Rep. Killacky of South Burlington, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that any exceptions made to existing landlord and tenant relationships in this act are limited solely to recovery residences operating pursuant to this act. These exceptions are intended to enable the expansion of recovery residences throughout the State and ensure their accessibility to individuals recovering from a substance use disorder.

Sec. 2. 18 V.S.A. § 4812 is added to read:

§ 4812. RECOVERY RESIDENCES

(a) Definition.

(1) As used in this section, “recovery residence” means a shared living residence supporting persons recovering from a substance use disorder that:

(A) Provides residents with peer support, an environment that prohibits the use of alcohol and the illegal use of prescription drugs or other illegal substances, and provides assistance accessing support services and community resources available to persons recovering from substance use disorder; and

(B) Is certified by an organization that is a Vermont affiliate of the National Alliance for Recovery Residences and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization to uphold appropriate standards for recovery housing.

(2) As used in this section, “the illegal use of prescription drugs” refers to the use of prescription drugs by a person who does not hold a valid prescription for that drug or in an amount that exceeds the dosing instructions.

(b) Voluntary arrangement. The decision to live in a recovery residence shall be voluntary and shall not be required or mandated by any private or public entity or individual.

(c) Terms of residency; compliance.

(1) Landlord and tenant relationship. A recovery residence and a resident have a landlord and tenant relationship that is subject to 9 V.S.A. chapter 137, except as otherwise provided in subdivisions (3)–(4) of this subsection.

(2) Residential rental agreement.

(A) A recovery residence and a resident shall execute a written rental agreement that includes:

(i) the policies and procedures governing the tenancy;

(ii) a statement that the recovery residence and the resident will comply with the policies and procedures;

(iii) the consequences of noncompliance;

(iv) the identification of a verified location where the resident may be housed in the event of temporary removal;

(v) payment requirements;

(vi) notice requirements and procedure for terminating the tenancy;

(vii) the contact information for a resident’s probation or parole officer, if the resident is on furlough or parole from the Department of

Corrections; and

(viii) any other provisions to which the parties agree.

(B) The parties may amend a rental agreement in a written record signed by the parties.

(C) A resident may have a support person present when negotiating and executing a rental agreement or amendment.

(3) Temporary removal.

(A) A recovery residence shall adopt policies and procedures that govern the temporary removal of a resident who uses alcohol or illegal substances, engages in the illegal use of prescription drugs, or engages in violent, sexually harassing, or threatening behavior, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of the reason for temporary removal and of the actions the resident must take to avoid temporary removal or to be readmitted after temporary removal;

(II) design and implement harm reduction strategies for a resident who is temporarily removed, which may include providing naloxone to the resident upon temporary removal or other strategies more appropriate to the resident's recovery needs; and

(III) take action that is consistent with the resident's most recent reoccurrence agreement to the extent possible.

(ii) A recovery residence shall not temporarily remove a resident based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence and to his or her property within the residence.

(4) Termination of tenancy.

(A) A recovery residence shall adopt policies and procedures that govern the termination of tenancy of a resident who violates one or more provisions of the rental agreement, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of its intent to terminate the tenancy

that includes the reason for termination and the actions the resident must take to avoid removal;

(II) design and implement harm reduction strategies for a resident whose tenancy is terminated, which may include providing naloxone to the resident upon removal or other strategies more appropriate to the resident's recovery needs; and

(III) adopt a review process under which:

(aa) a person other than the original decision maker or a subordinate of the original decision maker, which may include a Vermont affiliate of the National Alliance for Recovery Residences, reviews the decision to terminate the tenancy;

(bb) the resident has a meaningful opportunity to present evidence why the resident should not be removed; and

(cc) the resident receives prompt written notice of a final decision.

(ii) A recovery residence shall not:

(I) terminate a tenancy because a resident uses alcohol or illegal substances, or engages in the illegal use of prescription drugs, unless:

(aa) the resident fails to take the actions required to avoid temporary removal or to be readmitted after temporary removal; and

(bb) the recovery residence has contemporary drug test results verified by a laboratory approved by the State; or

(II) terminate a tenancy based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4467 and 4468, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(5) may terminate the tenancy of a resident pursuant to the notice requirements and procedure for terminating the tenancy provided in the rental agreement.

(d) Drug testing. A recovery residence shall adopt policies and procedures that govern drug testing of residents and shall apply the policies and testing procedures fairly among residents.

(e) Future services. A recovery residence shall not deny future services to a resident who has been either temporarily removed from a recovery residence or whose tenancy has been terminated, based solely on the resident's use of

alcohol or illegal substances or the illegal use of prescription drugs.

Sec. 3. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, and a recovery residence as defined in 18 V.S.A. § 4812, serving not more than eight persons, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot.

* * *

Sec. 4. REPORT; RECOVERY RESIDENCE; FURLOUGH

On or before January 1, 2021 and annually thereafter through January 1, 2024, the Department of Corrections shall submit a report to the House Committees on General, Housing, and Military Affairs, on Corrections and Institutions, and on Human Services and to the Senate Committees on Economic Development, on Health and Welfare, and on Judiciary containing the number of individuals on furlough who reside in recovery residences as defined in 18 V.S.A. § 4812 and the number of individuals who have violated the conditions of their furlough and were removed from their recovery residence and returned to prison.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote:8-1-2)

Rep. Redmond of Essex, for the Committee on Human Services, recommends the bill ought to pass when amended as recommended by the Committee on General, Housing, and Military Affairs and when further amended as follows:

First: In Sec. 2, 18 V.S.A. § 4812, in subdivision (a)(1)(A), by striking out

“available to persons recovering from substance use disorder;” and inserting in lieu thereof “.”

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(A)(ii) in its entirety and inserting a new subdivision (3)(A)(ii) to read as follows:

(ii) A recovery residence shall not temporarily remove a resident based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Third: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (4)(A)(ii)(II) in its entirety and inserting a new subdivision (4)(A)(ii)(II) to read as follows:

(II) terminate a tenancy based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Fourth: In Sec. 4, report; recovery residence; furlough, after “Senate Committees on Economic Development” by inserting “, Housing and General Affairs”

(Committee Vote: 9-0-2)

Amendment to be offered by Rep. Killacky of South Burlington to the recommendation of amendment of the Committee on General, Housing, and Military Affairs as further amended as recommended by the Committee on Human Services to H. 783

First: In Sec. 2, 18 V.S.A. § 4812, in subsection (a), by striking out subdivision (1)(B) in its entirety and inserting in lieu thereof a new subdivision (1)(B) to read as follows:

(B) Is certified by an organization that is a Vermont affiliate of the National Alliance for Recovery Residences or obtains a preliminary certification within 45 days of operation and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization to uphold appropriate standards for recovery housing.

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(B) in its entirety and inserting in lieu thereof a new subdivision (3)(B) to read as follows:

(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence, but shall return to the resident his or her property or ensure its safekeeping.

Unfinished Business of Friday, June 12, 2020
Favorable with Amendment
H. 880

An act relating to Abenaki place names on State park signs

Representative Howard of Rutland City, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended as follows:

Sec. 1. 10 V.S.A. § 2613 is added to read:

§ 2613. ABENAKI PLACE NAMES IN STATE PARKS

(a) The Commissioner, before installing new signs or replacing existing signs in a State park, shall consult with the Vermont Commission on Native American Affairs to determine if there is an Abenaki name for any site within the park. If the Commission on Native American Affairs advises the Commissioner of an Abenaki name, the Abenaki name shall be displayed with the English name.

(b) On or before July 1, 2025, all existing signs in State parks with Abenaki names shall be replaced to include the Abenaki name.

(c) The Commissioner shall adopt rules establishing a procedure for selecting spelling of the place name if there are multiple spellings provided by the Commission on Native American Affairs.

Sec. 2. LIST OF PLACES WITH ABENAKI NAMES

On or before January 15, 2021, the Vermont Commission on Native American Affairs shall prepare a list of places and landmarks with Abenaki names. The list shall state if there are multiple names or spelling variations for a place. The Commission shall present the list to the Commissioner of Forests, Parks and Recreation in order to facilitate the construction of signs as required under 10 V.S.A. § 2613. The Commission shall also determine if there are sites outside of State parks with Abenaki names that require new signs.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 10-0-1)

Amendment to be offered by Representative Stevens of Waterbury to H. 880 to

Representative Stevens of Waterbury moves that the bill be amended as follows:

First: In Sec. 1, 10 V.S.A. § 2613, by striking out Sec. 1 in its entirety and

inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 2613 is added to read:

§ 2613. ABENAKI PLACE NAMES IN STATE PARKS

(a) The Commissioner, before installing new signs or replacing existing signs in a State park, shall consult with the Vermont Commission on Native American Affairs to determine if there is an Abenaki name for any site within the park. If the Commission on Native American Affairs advises the Commissioner of an Abenaki name, the Abenaki name shall be displayed with the English name.

(b) The Commissioner shall adopt rules establishing a procedure for selecting the spelling of the place name if there are multiple spellings provided by the Commission on Native American Affairs.

Second: In Sec. 2, List of Places with Abenaki names, by striking out “January 15, 2021” and inserting in lieu thereof “March 15, 2021”

H. 923

An act relating to entering a vehicle without legal authority or consent

Representative Hashim of Dummerston for the Committee on Judiciary, recommends the bill be amended as follows:

Sec. 1. 13 V.S.A. § 3705 is added to read:

§ 3705. UNLAWFUL TRESPASS

* * *

(c) A person who knowingly enters the vehicle of another person without legal authority or the consent of the person in lawful possession of the vehicle shall be fined not more than \$250.00.

(d) A person who enters a building other than a residence, whose access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

(d)(e) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

(e)(f) A law enforcement officer shall not be prosecuted under subsection (a) of this section if he or she is authorized to serve civil or criminal process,

including citations, summons, subpoenas, warrants, and other court orders, and the scope of his or her entrance onto the land or place of another is no more than necessary to effectuate the service of process.

Sec. 2. EFFECTIVE DATE

This act shall take effect July 1, 2020.

(**Committee Vote: 8-0-2**)

Committee Bill for Second Reading

H. 940

An act relating to animal cruelty investigation response and training.

(**Representative Bartholomew of Hartland** will speak for the Committee on Agriculture and Forestry.)

H. 962

An act relating to the duration of temporary relief from abuse orders.

(**Rep. Grad of Moretown** will speak for the Committee on Judiciary.)

H. 963

An act relating to sunsets related to judiciary procedures.

(**Rep. Burditt of West Rutland** will speak for the Committee on Judiciary.)

Unfinished Business of Tuesday, June 16, 2020

Favorable

J.R.S. 54

Joint resolution relating to the annual State lands transactions

Rep. Macaig of Williston, for the Committee on Corrections and Institutions, recommends that the bill ought to pass in concurrence.

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

(**For text see Senate Journal May 28, 2020, page 609**)

NEW BUSINESS

Senate Proposal of Amendment

H. 558

An act relating to exempting the Victims Compensation Board from the

Open Meeting Law

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5358a is amended to read:

§ 5358a. APPLICATION INFORMATION; CONFIDENTIALITY

* * *

(d) Meetings of the Victims Compensation Board relating to victims compensation or offender restitution shall not be subject to the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2. Annually, the Board shall hold an open meeting to present information and data concerning the victims compensation and offender restitution programs, including aggregate information on cases, pecuniary loss, expense reimbursement, restitution orders, profits from crimes, and nonidentifying information on the amounts of compensation awarded to victims.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 13, 2020, page 870)

Senate Proposal of Amendment

H. 750

An act relating to creating a National Guard provost marshal

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 20 V.S.A. § 428, by inserting a subdivision (b)(4) to read as follows:

(4) Respond to allegations of sexual assault within the Vermont National Guard, including:

(A) reporting and documenting allegations of sexual assault within the Guard;

(B) coordinating and communicating with the Vermont National Guard Sexual Assault Response Coordinator as appropriate;

(C) coordinating and communicating with federal, State, and local law enforcement in relation to allegations of sexual assault by a member of the Vermont National Guard; and

(D) coordinating with State's Attorneys and the Attorney General in cases related to an alleged sexual assault by a member of the Vermont National

Guard.

Second: In Sec. 1, 20 V.S.A. § 428, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Powers. The provost marshal and the assistant provost marshal shall have the same powers and immunities as those conferred on the State Police by section 1914 of this title. The powers granted to the provost marshal and the assistant provost marshal under this section may be exercised statewide with respect to criminal activity in the National Guard only. Nothing in this subsection shall be construed to prevent an individual serving as the provost marshal or assistant provost marshal from working as an officer in another law enforcement agency or from exercising the law enforcement authority granted to officers working in that agency.

(For text see House Journal March 13, page 874)

Senate Proposal of Amendment

H. 936

An act relating to sexual exploitation of children

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 13 V.S.A. chapter 64, in section 2821, by striking out subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) "Sexual conduct" means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva, or the mouth and the vulva;

(B) any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(C) any intentional touching, not through the clothing, of the genitals, anus, or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(D) masturbation;

(E) bestiality; or

(F) sadomasochistic abuse for sexual purposes.

Second: In Sec. 1, 13 V.S.A. chapter 64, in section 2821, by adding a subdivision (6) to read as follows:

(6) “Peer-to-peer network” means a network in which two or more computers or devices share files without requiring a separate server computer or server software.

Third: By inserting a new Sec. 2 to read as follows:

Sec. 2. LEGISLATIVE PROPOSAL

The Attorney General, in collaboration with the Defender General and the Department of State’s Attorneys and Sheriffs, shall examine the issue of simulated sexual conduct by, with, or on a child under 16 years of age as it relates to child sexual abuse material for the purpose of developing a clear, narrowly tailored legislative proposal that prohibits such conduct while ensuring that a substantial amount of constitutionally protected speech is not inadvertently swept into the purview of the statute. The Attorney General shall submit the recommendation not later than November 1, 2020 to the Joint Legislative Committee on Justice Oversight.

Fourth: By renumbering Sec. 2, effective date, to be Sec. 3, and by striking out “July 1, 2020” and inserting in lieu thereof passage

(For text see House Journal March 11, 2020, page 646)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 965

An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund.

(Representative Yacovone will speak for the Committee on Appropriations.)

H. 966

An act relating to COVID-19 broadband connectivity and housing initiatives.

(Representative Feltus will speak for the Committee on Appropriations.)

Favorable with Amendment

S. 339

An act relating to miscellaneous changes to laws related to vehicles

Representative McCormack of Burlington, for the Committee on Transportation, recommends that the House propose to the Senate that the bill be amended as follows:

First: By striking out Sec. 5, 23 V.S.A. § 373, and Sec. 6, 23 V.S.A.

§ 1222, and the corresponding reader assistance heading in their entirety and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Second: By inserting the following reader assistance heading before Sec. 13:

* * * Exempt Vehicle Title * * *

Third: By striking out Sec. 14, 23 V.S.A. § 1399, in its entirety and inserting in lieu thereof the following:

Sec. 14. 23 V.S.A. § 1399 is amended to read:

§ 1399. EXCEPTIONS FOR CONSTRUCTION AND MAINTENANCE
EQUIPMENT; FIRE APPARATUS; AND HEAVY-DUTY TOW
AND RECOVERY VEHICLES

(a) As used in this section, “heavy-duty tow and recovery vehicle” means a vehicle that:

(1) is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and

(2) has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

(b) Nothing contained in sections 1391–1398 of this title, shall restrict the weight of:

(1) ~~snow~~ Snow plows, road machines, oilers, traction engines, tractors, rollers, power shovels, dump wagons, trucks, or other construction or maintenance equipment when used by any town, incorporated village, city, or state ~~the State~~ in the construction or the maintenance of any highway, provided that such construction or maintenance is performed by persons employed by or under contract with such town, incorporated village, city, or the State for this purpose. However, any operation of motorized highway building equipment or road making appliances used in construction work contracted by a town, incorporated village, city, or the State shall be unrestricted as to weight only within a construction area.

(2) ~~Nothing contained in sections 1391–1398 of this title shall restrict the weight of municipal~~ Municipal and volunteer fire apparatus.

(3) Heavy-duty tow and recovery vehicles on the Dwight D. Eisenhower System of Interstate and Defense Highways.

Fourth: By inserting a Sec. 15a to read as follows:

Sec. 15a. 23 V.S.A. § 1437 is added to read:

§ 1437. EXCEPTION FOR TOWAWAY TRAILER TRANSPORTER
COMBINATION

(a) As used in this section:

(1) “Towaway trailer transporter combination” means a combination of vehicles consisting of a trailer transporter towing unit and two trailers or semitrailers with a total weight that does not exceed 26,000 pounds and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(2) “Trailer transporter towing unit” means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

(b) Notwithstanding sections 1391–1398 of this title, a towaway trailer transporter combination may be operated on the Dwight D. Eisenhower System of Interstate and Defense Highways, those classes of qualifying Federal-aid Primary System highways as designated by the Secretary of the U.S. Department of Transportation, and on highways leading to or from the Dwight D. Eisenhower System of Interstate and Defense Highways for a distance of one mile or less without a permit if the overall length does not exceed 82 feet unless the Vermont Secretary of Transportation finds the use of a specific highway to be unsafe.

Fifth: By striking out Sec. 26, online permitting system, and its corresponding reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Online Permitting System; Report * * *

Sec. 26. ONLINE PERMITTING SYSTEM; REPORT

(a) Centralized online permitting system.

(1) The Commissioner of Motor Vehicles is authorized to initiate the design and development of a centralized online permitting system. The online system shall provide 24-hour-a-day access to a system where a person can apply for, obtain, and pay for required weight and length permits issued by the Agency of Transportation.

(2) The Commissioner shall design the online system so that, in a future phase, municipally issued weight and length permits may be purchased and issued through the same system. The Commissioner shall consult with

stakeholders to establish conditions for municipally issued permits prior to engaging in design and development for the future phase.

(b) Permit study and report.

(1) The Agency of Transportation shall facilitate a study to:

(A) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, or jurisdictional issues for class 2 town highways if municipal permits currently required by municipalities are not required for vehicles that are allowed on State highways without a permit;

(B) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways if an additional permit or permits are not required when a wrecker, as defined under 23 V.S.A. § 4(76), is towing one or more disabled vehicles and the wrecker and disabled vehicle or vehicles individually do not exceed the limitations imposed by 23 V.S.A. chapter 13, subchapter 15, article 1 or are lawfully operating under a blanket permit; and

(C) make recommendations on any limitations, including distance towed, or conditions that should be imposed if an additional permit or permits are not required in the situation identified in subdivision (B) of this subdivision (1).

(2) The Agency shall file a written report on this study with the House and Senate Committees on Transportation on or before January 15, 2021.

Sixth: By striking out Sec. 28, use of lighted paddle signaling devices, in its entirety and inserting in lieu thereof the following:

Sec. 28. USE OF LIGHTED PADDLE SIGNALING DEVICES; REPORT

(a) Pilot program. On or before September 1, 2020, the Agency of Transportation shall identify a minimum of 10 projects to pilot the use of STOP/SLOW paddle signaling devices modified to improve conspicuity by incorporating either white or red flashing lights on the STOP face and either white or yellow flashing lights on the SLOW face in one of the patterns and consistent with the standards detailed in Part 6E.03 of the Manual Uniform on Traffic Control Devices (MUTCD). The Agency shall select projects that will allow the testing of such devices in a range of projects to collect data on the effectiveness, reliability, and availability during the 2021 and 2022 construction seasons.

(b) Report. The Agency shall file a written report on the pilot program identified in subsection (a) of this section with the House and Senate

Committees on Transportation on or before December 1, 2022. At a minimum, the report shall cover:

- (1) the selected projects, including location and a brief description; and
- (2) an evaluation of the effectiveness, reliability, and availability of the lighted paddle signaling devices.

Seventh: In Sec. 36, 23 V.S.A. § 1050, in subsection (a) by striking out “EMS personnel,” and inserting in lieu thereof “EMS personnel,”

Eighth: In Sec. 44, effective dates, in subsection (a) by striking out “43 (learner’s permits; 23 V.S.A. § 617(e))” and inserting in lieu thereof “42 (translated documents and use of interpreters)”

Ninth: In Sec. 44, effective dates, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) Notwithstanding 1 V.S.A. § 214, Sec. 43 (learner’s permits; 23 V.S.A. § 617(e)) shall take effect retroactively on June 1, 2020.

(e) All other sections shall take effect on July 1, 2020.

(Committee vote: 11-0-0)

(For text see Senate Journal May, 21, 2020, page 510)

Representative Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Transportation.

(Committee Vote: 10-0-1)

Ordered to Lie

H. 162

An act relating to removal of buprenorphine from the misdemeanor crime of possession of a narcotic.

Pending Action: Second reading

H. 492

An act relating to establishing a homeless bill of rights and prohibiting discrimination against people without homes.

Pending Action: Second reading

H. 535

An act relating to approval of amendments to the charter of the Town of Brattleboro.

Pending Action: Second reading