

Journal of the Senate

WEDNESDAY, MARCH 10, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 28

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 88. An act relating to certification of agricultural use for purposes of the use value appraisal program.

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

Message from the House No. 29

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 199. An act relating to validating legal instruments used in connection with the conveyance of real estate.

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

The Governor has informed the House that on March 2, 2021, he approved and signed a bill originating in the House of the following title:

H. 138. An act relating to fiscal year 2021 budget adjustments.

Rules Suspended; Bill Not Referred to Committee on Appropriations**S. 110**

Appearing on the Calendar for notice, and, pending referral of the bill to the Committee on Appropriations pursuant to Senate Rule 31, Senator Balint moved that the rules be suspended and the Senate bill entitled:

An act relating to extending eligibility for Pandemic Emergency Unemployment Compensation.

Not be referred to the Committee on Appropriations pursuant to Senate Rule 31 (and thereby remain on the Calendar for notice),

Which was agreed to.

Committee Bills Introduced

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 114.

By the Committee on Education,

An act relating to improving prekindergarten through grade 12 literacy within the State.

S. 115.

By the Committee on Education,

An act relating to making miscellaneous changes in education laws.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 116.

By Senators Ram, Chittenden and Parent,

An act relating to veteran status inquiries on program and service intake forms.

To the Committee on Health and Welfare.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 117.

By the Committee on Health and Welfare,

An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 88.

An act relating to certification of agricultural use for purposes of the use value appraisal program.

To the Committee on Agriculture.

H. 199.

An act relating to validating legal instruments used in connection with the conveyance of real estate.

To the Committee on Judiciary.

Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed; Bill Messaged**S. 110.**

Appearing on the Calendar for notice, on motion of Senator Balint, the rules were suspended and Senate bill entitled:

An act relating to extending eligibility for Pandemic Emergency Unemployment Compensation.

Was taken up for immediate consideration.

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Balint, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Balint, the rules were suspended and the bill was ordered messaged to the House forthwith.

Third Reading Ordered

S. 39.

Senator Benning, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to the Judicial Branch fee report and electronic filing fees.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 22.

Senator Hooker, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to health care practitioners administering stem cell products not approved by the U.S. Food and Drug Administration.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. STEM CELL PRODUCTS

§ 4501. DEFINITIONS

As used in this chapter:

(1) "Health care practitioner" means an individual licensed by the Board of Medical Practice or the Office of Professional Regulation to provide professional health care services in this State.

(2)(A) "Stem cell and stem cell-related products" means any articles that contain or consist, or purport to contain or consist, of one or more of the following, when intended for implantation, transplantation, infusion, or transfer into a human recipient and when intended for use in the diagnosis, cure, mitigation, treatment, or prevention of any disease or condition based on or in connection with a proven or purported attribute of stem cells:

(i) human cells, including cells from tissues such as bone marrow; adipose tissue; amniotic membrane; umbilical cord blood, when not

autologous or in a first- or second-degree relative; placenta; and other tissue or cell sources;

(ii) intracellular or extracellular components or vesicles; or

(iii) amniotic fluid.

(B) For purposes of this chapter, “stem cell and stem cell-related products” does not include the use of whole blood or blood products for routine transfusions or use of hematopoietic stem cells for reconstitution of bone marrow after treatment of blood-related cancers or diseases such as leukemias or lymphomas.

§ 4502. UNAPPROVED STEM CELL AND STEM CELL-RELATED PRODUCTS; NOTICE; DISCLOSURE

(a) Notice.

(1) A health care practitioner who administers one or more stem cell or stem cell-related products that are not approved by the U.S. Food and Drug Administration shall provide each patient with the following written notice prior to administering any such product to the patient for the first time:

“THIS NOTICE MUST BE PROVIDED TO YOU UNDER VERMONT LAW. This health care practitioner administers one or more stem cell or stem cell-related products that have not been approved by the U.S. Food and Drug Administration. You are encouraged to consult with your primary care provider prior to having an unapproved stem cell or stem cell-related product administered to you.”

(2)(A) The written notice required by subdivision (1) of this subsection shall:

(i) be at least 8.5 by 11 inches and printed in not less than 40-point type; and

(ii) include information on methods for filing a complaint with the applicable licensing authority and for making a consumer inquiry, including to the Attorney General’s Consumer Assistance Program.

(B) The health care practitioner shall also prominently display the written notice required by subdivision (1) of this subsection, along with the information required to be included by subdivision (A)(ii) of this subdivision (2), at the entrance and in an area visible to patients in the health care practitioner’s office.

(b) Disclosure.

(1) A health care practitioner who administers stem cell or stem cell-related products that are not approved by the U.S. Food and Drug Administration shall provide a disclosure form to a patient for the patient's signature prior to each administration of an unapproved stem cell or stem cell-related product.

(2) The disclosure form shall state, in language that the patient could reasonably be expected to understand, the stem cell or stem cell-related product's U.S. Food and Drug Administration approval status.

(3) The health care practitioner shall retain in the patient's medical record a copy of each disclosure form signed and dated by the patient and shall provide a copy of the disclosure form for the patient to take home.

(c) Advertisements. A health care practitioner shall include the notice set forth in subdivision (a)(1) of this section in any advertisements relating to the use of stem cell or stem cell-related products that are not approved by the U.S. Food and Drug Administration. In print advertisements, the notice shall be clearly legible and in a font size not smaller than the largest font size used in the advertisement. For all other forms of advertisements, the notice shall either be clearly legible in a font size not smaller than the largest font size used in the advertisement or clearly spoken.

(d) Nonapplicability. The provisions of this section shall not apply to the following:

(1) a health care practitioner who has obtained approval or clearance for an investigational new drug or device from the U.S. Food and Drug Administration for the use of stem cell or stem cell-related products;

(2) a health care practitioner who administers a stem cell or stem cell-related product pursuant to an employment or other contract to administer stem cell or stem cell-related products on behalf of or under the auspices of an institution certified by the Foundation for the Accreditation of Cellular Therapy, the National Institutes of Health Blood and Marrow Transplant Clinical Trials Network, or AABB, formerly known as the American Association of Blood Banks; or

(3) a health care practitioner who has personally received a formal or informal determination from the U.S. Food and Drug Administration stating that approval is not necessary for the practitioner's specific usage of the stem cell or stem cell-related products.

(e) Violations. A violation of this section constitutes unprofessional conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354.

Sec. 2. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(27) For a health care practitioner, failing to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell or stem cell-related products not approved by the U.S. Food and Drug Administration.

* * *

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

§ 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:

* * *

(38) signing a blank or undated prescription form; ~~or~~

(39) [Repealed.]

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

(41) failure to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell or stem cell-related products not approved by the U.S. Food and Drug Administration.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 18.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of two Superior Judges and three Magistrates.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Committee Relieved of Further Consideration; Bill Committed

S. 107.

On motion of Senator Sears, the Committee on Judiciary was relieved of further consideration of Senate bill entitled:

An act relating to confidential information concerning the initial arrest and charge of a juvenile

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Sears, the bill was committed to the Committee on Government Operations.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, March 11, 2021.