

Journal of the House

Tuesday, April 18, 2017

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Malcolm Toleno, Pianist, Brattleboro, VT.

Pledge of Allegiance

Page Owen Kemerer of Essex led the House in the Pledge of Allegiance.

House Bill Introduced

H. 536

By Reps. Dakin of Colchester, Brennan of Colchester, Condon of Colchester and Taylor of Colchester,

House bill, entitled

An act relating to approval of amendments to the charter of the Town of Colchester;

To the committee on Government Operations.

Bill Referred to Committee on Ways and Means

S. 20

House bill, entitled

An act relating to permanent licenses for persons 66 years of age or older

Appearing on the Calendar, affecting the revenue of the state, under rule 35(a), was referred to the committee on Ways and Means.

Bill Referred to Committee on Appropriations

S. 130

House bill, entitled

An act relating to miscellaneous changes to education laws

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

Joint Resolution Referred to Committee**J.R.S. 18**

By Senators Cummings, Campion, Lyons, MacDonald, and Sirotkin,

J.R.S. 18. Joint resolution in support of combating the rise in hate crimes and bigotry.

Whereas, since November 2016, there has been an increase in hate crimes throughout the nation, and

Whereas, according to the Southern Poverty Law Center, during the ten days following the election, there were nearly 900 reports of harassment and intimidation from throughout the country, and

Whereas, Vermonters are in a unique position to lead the country in fighting bigotry and hatred, and

Whereas, members of the lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ) community are concerned that rights and protections won over the years may be lost, and

Whereas, these concerns are focused on the atmosphere of hate, which the LGBTQ community fears may result in physical danger for them and members of other marginalized communities, and

Whereas, a particular concern of the LGBTQ community is that silence will allow bigotry to take root in Vermont, and

Whereas, the LGBTQ community is hopeful that Vermont's history of rejecting extremists and meeting the challenges of hate and bigotry with love and fierce resistance will continue to prevail, and

Whereas, the General Assembly is in strong accord with these sentiments, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly calls upon Vermonters to denounce hatred and to support and respect marginalized communities, *and be it further*

Resolved: That the General Assembly will protect and preserve laws that foster equality among all persons, *and be it further*

Resolved: That taking the actions addressed in this resolution upholds the proud Vermont tradition of Freedom and Unity, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Outright Vermont, the Pride Center of Vermont, Green Mountain Crossroads, and the Rainbow Umbrella of Central Vermont.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the Committee on Judiciary.

Second Reading; Consideration Interrupted

H. 525

Rep. Stevens of Waterbury spoke for the committee on General, Housing and Military Affairs.

House bill entitled

An act relating to the Department of Liquor Control and the State Lottery

Rep. Trieber of Rockingham, for the committee on Appropriations, recommended the bill ought to pass

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Recess

At ten o'clock and twenty-six minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock and thirty-seven minutes in the forenoon, the Speaker called the House to order.

Consideration Resumed; Bill Committed

H. 525

Consideration resumed on House bill, entitled

An act relating to the Department of Liquor Control and the State Lottery

Thereupon, pending the question shall the bill be read a third time? on motion of **Rep. Head of South Burlington**, the bill was committed to the committee on Government Operations.

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

S. 23

Senate bill, entitled

An act relating to juvenile jurisdiction

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

Message from the Senate No. 45

A message was received from the Senate by Mr. Marshall, its Assistant

Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 31. Joint resolution relating to weekend adjournment.

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

Second Reading; Bill Amended; Third Reading Ordered

H. 150

Rep. Scheu of Middlebury, for the committee on Corrections and Institutions, to which had been referred House bill, entitled

An act relating to parole eligibility

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

Sec. 1. 28 V.S.A. § 502a is amended to read:

§ 502a. RELEASE ON PAROLE

(a) No inmate serving a sentence with a minimum term shall be released on parole until the inmate has served the minimum term of the sentence, less any reductions for good behavior.

* * *

(d) Notwithstanding subsection (a) of this section, or any other provision of law to the contrary, any inmate who is serving a sentence, including an inmate who has not yet served the minimum term of the sentence, who is diagnosed as having a terminal or ~~debilitating~~ serious medical condition so as to render the inmate unlikely to be physically capable of presenting a danger to society, may be released on medical parole to a hospital, hospice, other licensed inpatient facility, or suitable housing accommodation as specified by the Parole Board. The Provided the inmate has authorized the release of his or her personal health information, the Department shall promptly notify the Parole Board upon receipt of medical information of an inmate's diagnosis of a terminal or debilitating serious medical condition. As used in this subsection, a "serious medical condition" does not mean a condition caused by noncompliance with a medical treatment plan.

Sec. 2. 28 V.S.A. § 808(e) is amended to read:

(e) The Commissioner may place on medical furlough any offender who is serving a sentence, including an offender who

has not yet served the minimum term of the sentence, who is diagnosed with a terminal or ~~debilitating~~ serious medical condition so as to render the offender unlikely to be physically capable of presenting a danger to society. The Commissioner shall develop a policy regarding the application for, standards for eligibility of, and supervision of persons on medical furlough. The offender may be released to a hospital, hospice, other licensed inpatient facility, or other housing accommodation deemed suitable by the Commissioner. As used in this subsection, a "serious medical condition" does not mean a condition caused by noncompliance with a medical treatment plan.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Corrections and Institutions agreed to and third reading ordered.

Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered

S. 50

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

An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility

Reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED

THROUGH TELEMEDICINE SERVICES

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

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

(c) A health insurance plan may limit coverage to health care providers in the plan's network ~~and may require originating site health care providers to document the reason the services are being provided by telemedicine rather than in person.~~ A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

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

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

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

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

(h) As used in this subchapter:

(1) "Distant site" means the location of the health care provider delivering services through telemedicine at the time the services are provided.

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

~~(2)~~(3) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.

~~(3)~~(4) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care service in this

State to an individual during that individual's medical care, treatment, or confinement.

(5) “Originating site” means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including a health care provider's office, a hospital, or a health care facility, or the patient's home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient's workplace.

(6) “Store and forward” means an asynchronous transmission of medical information to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which the health care provider at the distant site reviews the medical information without the patient present in real time.

~~(4)~~(7) “Telemedicine” means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

Sec. 2. 18 V.S.A. § 9361 is amended to read:

§ 9361. HEALTH CARE PROVIDERS PROVIDING DELIVERING

HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY

STORE AND FORWARD SERVICES MEANS

(a) As used in this section, “distant site,” “health care provider,” “originating site,” “store and forward,” and “telemedicine” shall have the same meanings as in 8 V.S.A. § 4100k.

(b) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this state may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient either in person, through telemedicine, or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings. For purposes of this subchapter, “telemedicine” shall have the same meaning as in 8 V.S.A. § 4100k.

(c)(1) A health care provider delivering health care services through telemedicine shall obtain and document a patient's oral or written informed consent prior to delivering services to the patient. The provider shall include the written consent in the patient's medical record or document the patient's oral consent in the patient's medical record.

(2)(A) Informed consent for telemedicine services shall include, in language that patients can easily understand:

(i) an explanation of the differences between telemedicine and in-person delivery of health care services, including:

(I) that the patient may experience a qualitative difference in care based on potential differences in a patient's ability to establish a therapeutic rapport with the provider in-person and through telemedicine; and

(II) that telemedicine provides different opportunities and challenges for provider-patient interaction than in-person consultation, including the potential for differences in the degree and manner of the provider's visual observations of the patient;

(ii) informing the patient of the patient's right to exclude any individual from participating in or observing the patient's consultation with the provider at both the originating site and the distant site;

(iii) informing the patient that the patient may stop telemedicine services at any time and may request a referral for in-person services; and

(iv) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(B) For services delivered through telemedicine on an ongoing basis, the health care provider shall be required to obtain consent only at the first episode of care.

(3) A health care provider delivering telemedicine services through a contract with a third-party vendor shall comply with the provisions of subdivision (2) of this subsection (c) to the extent permissible under the terms of the contract. If the contract requires the health care provider to use the vendor's own informed consent provisions instead of those set forth in subdivision (2) of this subsection (c), the health care provider shall be deemed to be in compliance with the requirements of this subsection (c) if he or she adheres to the terms of the vendor's informed consent policies.

(4) Notwithstanding any provision of this subsection (c) to the contrary, a health care provider shall not be required to obtain a patient's informed

consent for the use of telemedicine in the following circumstances:

(A) for the second certification of an emergency examination determining whether an individual is a person in need of treatment pursuant to section 7508 of this title; or

(B) for a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).

(d) Neither a health care provider nor a patient shall create or cause to be created a recording of a provider's telemedicine consultation with a patient.

(b)(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time of following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means shall not preclude a patient from receiving real time telemedicine or face-to-face services with the distant site health care provider at a future date. Originating site health care providers involved in the store and forward process shall ensure obtain informed consent from the patient as described in subsection (c) of this section. For purposes of this subchapter, "store and forward" shall have the same meaning as in 8 V.S.A. § 4100k.

Sec. 3. REPEAL

33 V.S.A. § 1901i (Medicaid coverage for primary care telemedicine) is repealed.

Sec. 4. EFFECTIVE DATES

(a) Secs. 1 (health insurance coverage) and 3 (repeal) shall take effect on October 1, 2017 and shall apply to Medicaid on that date and to all other health insurance plans on or after October 1, 2017 on the date a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2018.

(b) Sec. 2 (health care providers providing telemedicine) and this section shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Health Care agreed to and third reading ordered.

Joint Resolution Adopted**J.R.H. 7**

Joint resolution, entitled

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House;

Was taken up and adopted on the part of the House.

Adjournment

At eleven o'clock and fifty-six minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.