

House Calendar

Wednesday, January 26, 2022

23rd DAY OF THE ADJOURNED SESSION

House Convenes at 3:00 PM

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ACTION CALENDAR

Favorable with Amendment

H. 654

An act relating to extending COVID-19 health care regulatory flexibility

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

Sec. 1. 2020 Acts and Resolves No. 91, as amended by 2020 Acts and Resolves No. 140, Sec. 13, 2020 Acts and Resolves No. 159, Sec. 10, 2021 Acts and Resolves No. 6, Secs. 1 and 3, and 2021 Acts and Resolves No. 69, Sec. 19, is further amended to read:

* * * Supporting Health Care and Human Service Provider Sustainability * * *

Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND
HUMAN SERVICE PROVIDER SUSTAINABILITY

Through March 31, ~~2022~~ 2023, the Agency of Human Services shall consider modifying existing rules or adopting emergency rules to protect access to health care services, long-term services and supports, and other human services under the Agency's jurisdiction. In modifying or adopting rules, the Agency shall consider the importance of the financial viability of providers that rely on funding from the State, federal government, or Medicaid, or a combination of these, for a major portion of their revenue.

* * *

* * * Protections for Employees of Health Care Facilities and
Human Service Providers * * *

Sec. 3. PROTECTIONS FOR EMPLOYEES OF HEALTH CARE
FACILITIES AND HUMAN SERVICE PROVIDERS

In order to protect employees of a health care facility or human service provider who are not licensed health care professionals from the risks associated with COVID-19, through March 31, ~~2022~~ 2023, all health care facilities and human service providers in Vermont, including hospitals, federally qualified health centers, rural health clinics, residential treatment programs, homeless shelters, home- and community-based service providers, and long-term care facilities, shall follow State and federal public health

guidance from the Vermont Department of Health regarding measures to address employee safety, to the extent feasible.

* * * Compliance Flexibility * * *

Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER

REGULATION; WAIVER OR VARIANCE PERMITTED

Notwithstanding any provision of the Agency of Human Services' administrative rules or standards to the contrary, through March 31, 2022 2023, the Secretary of Human Services may waive or permit variances from the following State rules and standards governing providers of health care services and human services as necessary to prioritize and maximize direct patient care, support children and families who receive benefits and services through the Department for Children and Families, and allow for continuation of operations with a reduced workforce and with flexible staffing arrangements that are responsive to evolving needs, to the extent such waivers or variances are permitted under federal law:

- (1) Hospital Licensing Rule;
- (2) Hospital Reporting Rule;
- (3) Nursing Home Licensing and Operating Rule;
- (4) Home Health Agency Designation and Operation Regulations;
- (5) Residential Care Home Licensing Regulations;
- (6) Assisted Living Residence Licensing Regulations;
- (7) Home for the Terminally Ill Licensing Regulations;
- (8) Standards for Adult Day Services;
- (9) Therapeutic Community Residences Licensing Regulations;
- (10) Choices for Care High/Highest Manual;
- (11) Designated and Specialized Service Agency designation and provider rules;
- (12) Child Care Licensing Regulations;
- (13) Public Assistance Program Regulations;
- (14) Foster Care and Residential Program Regulations; and
- (15) other rules and standards for which the Agency of Human Services is the adopting authority under 3 V.S.A. chapter 25.

Sec. 5. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR

VARIANCE PERMITTED

(a) Notwithstanding any provision of 18 V.S.A. chapter 220 or 221, 8 V.S.A. § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain Care Board's administrative rules, guidance, or standards to the contrary, during a declared state of emergency in Vermont as a result of COVID-19 and for a period of six months following the termination of the state of emergency through March 31, 2023, the Green Mountain Care Board may waive or permit variances from State laws, guidance, and standards with respect to the following regulatory activities, to the extent permitted under federal law, as necessary to prioritize and maximize direct patient care, safeguard the stability of health care providers, and allow for orderly regulatory processes that are responsive to evolving needs related to the COVID-19 pandemic:

- (1) hospital budget review;
- (2) certificates of need;
- (3) health insurance rate review; and
- (4) accountable care organization certification and budget review.

(b) As part of any proceeding conducted on or after February 1, 2022 to establish or enforce a hospital's fiscal year 2022 or 2023 budget, the Green Mountain Care Board shall consider the hospital's extraordinary labor costs and investments, as well as the impacts of those costs and investments on the affordability of health care.

Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER

ENROLLMENT AND CREDENTIALING

Until March 31, ~~2022~~ 2023, and to the extent permitted under federal law, the Department of Vermont Health Access shall relax provider enrollment requirements for the Medicaid program, and the Department of Financial Regulation shall direct health insurers to relax provider credentialing requirements for health insurance plans, in order to allow for individual health care providers to deliver and be reimbursed for services provided across health care settings as needed to respond to Vermonters' evolving health care needs.

* * *

Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF FINANCIAL REGULATION; EMERGENCY RULEMAKING

(a) It is the intent of the General Assembly to increase Vermonters' access to medically necessary health care services during and after a declared state of emergency in Vermont as a result of COVID-19.

(b)(1) Until April 1, ~~2022~~ 2023, and notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following through March 31, ~~2022~~ 2023:

(A) expanding health insurance coverage for, and waiving or limiting cost-sharing requirements directly related to, the diagnosis of COVID-19, including tests for influenza, pneumonia, and other respiratory viruses performed in connection with making a COVID-19 diagnosis; the treatment of COVID-19 when it is the primary or a secondary diagnosis; and the prevention of COVID-19; and

(B) modifying or suspending health insurance plan deductible requirements for all prescription drugs, except to the extent that such an action would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223.

(2) Any rules adopted in accordance with this subsection shall remain in effect until not later than April 1, ~~2022~~ 2023.

* * * Access to Health Care Services and Human Services * * *

* * *

Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;

EARLY REFILLS

(a) As used in this section, “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. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

(b) Through March 31, ~~2022~~ 2023, all health insurance plans and Vermont Medicaid shall allow their members to refill prescriptions for chronic maintenance medications early to enable the members to maintain a 30-day supply of each prescribed maintenance medication at home.

(c) As used in this section, “maintenance medication” means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

* * *

* * * Regulation of Professions * * *

* * *

Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE
PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, through March 31, ~~2022~~ 2023, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont ~~using telehealth~~; as a volunteer member of the Medical Reserve Corps; or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who plans to provide health care services in Vermont as a volunteer member of the Medical Reserve Corps or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:

(1) the Board of Medical Practice for medical doctors, physician assistants, and podiatrists; or

(2) the Office of Professional Regulation for all other health care professions.

(c) A health care professional who delivers health care services in Vermont pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or the Office of Professional

Regulation, as applicable based on the health care professional's profession, in accordance with Sec. 19 of this act.

(d)(1) This section shall remain in effect through March 31, ~~2022~~ 2023, provided the health care professional remains licensed, certified, or registered in good standing.

(2) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, ~~2022~~ 2023 expiration date of this section to:

(A) health care professionals providing health care services in Vermont under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

(e) Nothing in this section is intended to limit, restrict, or modify the application of existing or future federal waivers of health care professional licensure requirements to licensed and certified facilities.

Sec. 18. INACTIVE LICENSEES; BOARD OF MEDICAL PRACTICE;

OFFICE OF PROFESSIONAL REGULATION

(a)(1) Through March 31, ~~2022~~ 2023, a former health care professional, including a mental health professional, whose Vermont license, certificate, or registration became inactive not more than three years earlier and was in good standing at the time it became inactive may provide health care services, including mental health services, to a patient located in Vermont using telehealth; as a volunteer member of the Medical Reserve Corps; or as part of the staff of a licensed facility, other health care facility as defined in 18 V.S.A. § 9432, or federally qualified health center after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or Office of Professional Regulation, as applicable, the individual's name, contact information, and the location or locations at which the individual will be practicing.

(2) A former health care professional who returns to the Vermont health care workforce pursuant to this subsection shall be subject to the regulatory jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable.

(3) The Board of Medical Practice and Office of Professional Regulation shall provide appropriate notice of the March 31, ~~2022~~ 2023 expiration date of this section to:

(A) health care professionals providing health care services under this section;

(B) the Medical Reserve Corps; and

(C) health care facilities and federally qualified health centers at which health care professionals are providing services under this section.

(b) Through March 31, ~~2022~~ 2023, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, whose Vermont license, certificate, or registration became inactive more than three but less than 10 years earlier and was in good standing at the time it became inactive to return to the health care workforce on a temporary basis to provide health care services, including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the scope of practice of returning health care professionals as the Board or Office deems appropriate.

* * *

Sec. 20. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; EMERGENCY AUTHORITY TO ACT
FOR REGULATORY BOARDS

(a)(1) Through March 31, ~~2022~~ 2023, if the Director of Professional Regulation finds that a regulatory body attached to the Office of Professional Regulation by 3 V.S.A. § 122 cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Director may exercise the full powers and authorities of that regulatory body, including disciplinary authority.

(2) Through March 31, ~~2022~~ 2023, if the Executive Director of the Board of Medical Practice finds that the Board cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Executive Director may exercise the full powers and authorities of the Board, including disciplinary authority.

(b) The signature of the Director of the Office of Professional Regulation or of the Executive Director of the Board of Medical Practice shall have the same force and effect as a voted act of their respective boards.

(c)(1) A record of the actions of the Director of the Office of Professional Regulation taken pursuant to the authority granted by this section shall be

published conspicuously on the website of the regulatory body on whose behalf the Director took the action.

(2) A record of the actions of the Executive Director of the Board of Medical Practice taken pursuant to the authority granted by this section shall be published conspicuously on the website of the Board of Medical Practice.

Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; EMERGENCY REGULATORY
ORDERS

Through March 31, ~~2022~~ 2023, the Director of Professional Regulation and the Commissioner of Health may issue such orders governing regulated professional activities and practices as may be necessary to protect the public health, safety, and welfare. If the Director or Commissioner finds that a professional practice, act, offering, therapy, or procedure by persons licensed or required to be licensed by Title 26 of the Vermont Statutes Annotated is exploitative, deceptive, or detrimental to the public health, safety, or welfare, or a combination of these, the Director or Commissioner may issue an order to cease and desist from the applicable activity, which, after reasonable efforts to publicize or serve the order on the affected persons, shall be binding upon all persons licensed or required to be licensed by Title 26 of the Vermont Statutes Annotated, and a violation of the order shall subject the person or persons to professional discipline, may be a basis for injunction by the Superior Court, and shall be deemed a violation of 3 V.S.A. § 127.

* * *

* * * Telehealth * * *

* * *

Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS
FOR A LIMITED TIME

(a) Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, through March 31, ~~2022~~ 2023, the following provisions related to the delivery of health care services through telemedicine or by store-and-forward means shall not be required, to the extent their waiver is permitted by federal law or guidance regarding enforcement discretion:

(1) delivering health care services, including dental services, using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance

with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use such a connection under the circumstances; and

(2) representing to a patient that the health care services, including dental services, will be delivered using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance with 18 V.S.A. § 9361(c), if it is not practicable to use such a connection under the circumstances.

~~(b) Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, until 60 days following a declared state of emergency in Vermont as a result of COVID-19, a health care provider shall not be required to obtain and document a patient's oral or written informed consent for the use of telemedicine or store and forward technology prior to delivering services to the patient in accordance with 18 V.S.A. § 9361(c), if obtaining or documenting such consent, or both, is not practicable under the circumstances.~~

* * *

Sec. 2. 2020 Acts and Resolves No. 140, Sec. 15, as amended by 2021 Acts and Resolves No. 6, Sec. 2, is further amended to read:

Sec. 15. BOARD OF MEDICAL PRACTICE; TEMPORARY
PROVISIONS; PHYSICIANS, PHYSICIAN ASSISTANTS,
AND PODIATRISTS

(a) Notwithstanding any provision of 26 V.S.A. § 1353(11) to the contrary, the Board of Medical Practice or its Executive Director may issue a temporary license through March 31, ~~2022~~ 2023 to an individual who is licensed to practice as a physician, physician assistant, or podiatrist in another jurisdiction, whose license is in good standing, and who is not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until a date not later than April 1, ~~2022~~ 2023, provided the licensee remains in good standing.

(b) Through March 31, ~~2022~~ 2023, the Board of Medical Practice or its Executive Director may waive requirements for physician assistants, including scope of practice requirements and the requirement for documentation of the relationship between a physician assistant and a physician pursuant to 26 V.S.A. § 1735a. The Board or Executive Director may impose limitations or conditions when granting a waiver under this subsection.

Sec. 3. 2020 Acts and Resolves No. 178, Sec. 12a, as amended by 2021 Acts and Resolves No. 6, Sec. 2a, is further amended to read:

Sec. 12a. SUNSET OF PHARMACIST AUTHORITY TO ORDER OR
ADMINISTER SARS-COV TESTS

In Sec. 11, 26 V.S.A. § 2023(b)(2)(A)(x) (clinical pharmacy prescribing; State protocol; SARS-CoV testing) shall be repealed on March 31, ~~2022~~ 2023.

Sec. 4. 2021 Acts and Resolves No. 6, Sec. 8 is amended to read:

Sec. 8. TELEPHONE TRIAGE SERVICES; DEPARTMENT OF
FINANCIAL REGULATION; EMERGENCY RULEMAKING

Notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address health insurance coverage of and reimbursement for telephone calls used to determine whether an office visit or other service is needed. Emergency rules adopted pursuant to this section shall remain in effect until not later than April 1, ~~2022~~ 2023.

Sec. 5. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE
PROFESSIONALS THROUGH MARCH 31, 2022

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, through March 31, 2022, a health care professional who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services to a patient located in Vermont using telehealth, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who delivers health care services to a patient located in Vermont using telehealth pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or

the Office of Professional Regulation, as applicable based on the health care professional's profession.

(c) This section shall remain in effect through March 31, 2022, provided the health care professional remains licensed, certified, or registered in good standing. Beginning on April 1, 2022 and continuing through June 30, 2023, an out-of-state health care professional shall register with the Office of Professional Regulation or Board of Medical Practice, as applicable, in accordance with Sec. 6 of this act in order to provide or to continue to provide health care services to one or more patients located in Vermont.

Sec. 6. TEMPORARY TELEHEALTH REGISTRATION FOR OUT-OF-STATE HEALTH CARE PROFESSIONALS

Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, from the period from April 1, 2022 through June 30, 2023, the Office of Professional Regulation and Board of Medical Practice shall register a health care professional who is not licensed or registered to practice in Vermont but who seeks to provide health care services to patients or clients located in Vermont using telehealth, provided:

(1) the health care professional completes an application in the manner specified by the Director of the Office of Professional Regulation or the Board of Medical Practice, as applicable; and

(2)(A) the health care professional holds an active, unencumbered license, certificate, or registration in at least one other U.S. jurisdiction to practice the health care profession for which the health care professional seeks to provide telehealth services in Vermont;

(B) the health care professional's license, certificate, or registration is in good standing in all other U.S. jurisdictions in which the health care professional is licensed, certified, or registered to practice; and

(C) the health care professional provides verification of licensure, certification, or registration to the Office or the Board, as applicable.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-1)

Amendment to be offered by Reps. Noyes of Wolcott, Brumsted of Shelburne, Garofano of Essex, Gregoire of Fairfield, McFaun of Barre Town, Pajala of Londonderry, Pugh of South Burlington, Rosenquist of Georgia, Small of Winooski, Whitman of Bennington and Wood of Waterbury to the recommendation of amendment of the Committee on Health Care to H. 654

That the report of the Committee on Health Care be amended as follows:

First: In Sec. 1, 2020 Acts and Resolves No. 91, as amended and further amended, following Sec. 9 of that act and its ellipses, by inserting the following:

Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

Through March 31, ~~2022~~ 2023, to the extent permitted under federal law, a health care professional authorized to prescribe buprenorphine for treatment of substance use disorder may authorize renewal of a patient's existing buprenorphine prescription without requiring an office visit.

Sec. 13. 24-HOUR FACILITIES AND PROGRAMS; BED-HOLD DAYS

Through March 31, ~~2022~~ 2023, to the extent permitted under federal law, the Agency of Human Services may reimburse Medicaid-funded long-term care facilities and other programs providing 24-hour per day services for their bed-hold days.

* * *

Second: By adding a new section to be Sec. 7 to read as follows:

Sec. 7. 18 V.S.A. § 9721 is amended to read:

§ 9721. ADVANCE DIRECTIVES; COVID-19 ~~STATE OF EMERGENCY~~;
REMOTE WITNESSES AND EXPLAINERS

* * *

(c)(1) Notwithstanding any provision of subsection 9703(b) of this title to the contrary, an advance directive executed by a principal between June 15, 2020 and ~~June 30, 2022~~ March 31, 2023 shall be deemed to be valid even if the principal signed the advance directive outside the physical presence of one or both of the required witnesses, provided all of the following conditions are met with respect to each remote witness:

* * *

(d)(1) Notwithstanding any provision of subsection 9703(d) or (e) of this title to the contrary, an advance directive executed by a principal between

February 15, 2020 and ~~June 30, 2022~~ March 31, 2023 while the principal was being admitted to or was a resident of a nursing home or residential care facility or was being admitted to or was a patient in a hospital shall be deemed to be valid even if the individual who explained the nature and effect of the advance directive to the principal in accordance with subsection 9703(d) or (e) of this title, as applicable, was not physically present in the same location as the principal at the time of the explanation, provided the individual delivering the explanation was communicating with the principal by video or telephone.

(2) An advance directive executed in accordance with this subsection shall remain valid as set forth in subsection (b) or (c) of this section, as applicable.

And by renumbering the remaining section, effective date, to be Sec. 8

NOTICE CALENDAR
Committee Bill for Second Reading

H. 693

An act relating to the annual budget vote of the Northeast Kingdom Waste Management District.

(Rep. Higley of Lowell will speak for the Committee on Government Operations.)

Favorable with Amendment

H. 462

An act relating to miscellaneous Department of Health programs

Rep. Whitman of Bennington, for the Committee on Human Services, recommends the bill be amended as follows:

* * * Division of Substance Use Programs * * *

Sec. 1. 3 V.S.A. § 3004 is amended to read:

§ 3004. PERSONNEL DESIGNATION

The Secretary, Deputy Secretary, commissioners, deputy commissioners, attorneys, Directors of the Offices of State Economic Opportunity, ~~of Alcohol and Drug Abuse Programs~~, and of Child Support, and all members of boards, committees, commissions, or councils attached to the Agency for support are exempt from the classified State service. Except as authorized by section 311 of this title or otherwise by law, all other positions shall be within the classified service.

Sec. 2. 18 V.S.A. § 4255 is amended to read:

§ 4255. VERMONT PRESCRIPTION DRUG ADVISORY COUNCIL

* * *

(b)(1) The Advisory Council shall consist of the following members:

(A) the Commissioner of Health or designee, who shall serve as chair;

(B) the Deputy Commissioner of Health for ~~Alcohol and Drug Abuse~~ the Division of Substance Use Programs or designee;

* * *

(CC) a drug and alcohol abuse counselor licensed pursuant to 26 V.S.A. chapter 62, to be selected by the Deputy Commissioner of Health for ~~Alcohol and Drug Abuse~~ the Division of Substance Use Programs;

* * *

Sec. 3. 18 V.S.A. 4806 is amended to read:

§ 4806. DIVISION OF ~~ALCOHOL AND DRUG ABUSE~~ SUBSTANCE USE PROGRAMS

(a) The Division of ~~Alcohol and Drug Abuse~~ Substance Use Programs shall plan, operate, and evaluate a consistent, effective program of substance ~~abuse~~ use programs. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

* * *

(c) Under the direction of the Commissioner of Health, the Deputy Commissioner of ~~Alcohol and Drug Abuse Programs~~ for the Division shall review and approve all alcohol and drug programs developed or administered by any State agency or department, except for alcohol and drug education programs developed by the Agency of Education in conjunction with the Alcohol and Drug Abuse Council pursuant to 16 V.S.A. § 909.

* * *

Sec. 4. 18 V.S.A. § 7253 is amended to read:

§ 7253. CLINICAL RESOURCE MANAGEMENT AND OVERSIGHT

The Commissioner of Mental Health, in consultation with health care providers as defined in section 9432 of this title, including designated hospitals, designated agencies, individuals with mental conditions or psychiatric disabilities, and other stakeholders, shall design and implement a

clinical resource management system that ensures the highest quality of care and facilitates long-term, sustained recovery for individuals in the custody of the Commissioner.

* * *

(2) For the purpose of maintaining the integrity and effectiveness of the clinical resource management system, the Department of Mental Health shall:

* * *

(B) coordinate care across the mental and physical health care systems as well as ensure coordination within the Agency of Human Services, particularly the Department of Corrections, the Department of Health's ~~Alcohol and Drug Abuse~~ Division of Substance Use Programs, and the Department of Disabilities, Aging, and Independent Living;

* * *

Sec. 5. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21 YEARS OF AGE; ALCOHOL
CONCENTRATION OF 0.02 OR MORE

* * *

(g) The Alcohol and Driving Program required under this section shall be administered by the ~~Office of Alcohol and Drug Abuse~~ Department of Health's Division of Substance Use Programs and shall take into consideration any particular treatment needs of operators under ~~the age of 21 years of age.~~

* * *

Sec. 6. 23 V.S.A. § 3207f is amended to read:

§ 3207f. PERSONS UNDER 21 YEARS OF AGE; ALCOHOL
CONCENTRATION OF 0.02 OR MORE

* * *

(f) The alcohol program required under this section shall be administered by the ~~Office of Alcohol and Drug Abuse~~ Department of Health's Division of Substance Use Programs and shall take into consideration any particular treatment needs of operators under ~~the age of 21 years of age.~~

* * *

Sec. 7. 23 V.S.A. § 3323a is amended to read:

§ 3323a. PERSONS UNDER 21 YEARS OF AGE; ALCOHOL
CONCENTRATION OF 0.02 OR MORE

* * *

(f) The alcohol program required under this section shall be administered by the ~~Office of Alcohol and Drug Abuse~~ Department of Health's Division of Substance Use Programs and shall take into consideration any particular treatment needs of operators under ~~the age of 21 years of age~~.

* * *

Sec. 8. 33 V.S.A. § 5272 is amended to read:

§ 5272. JUVENILE JUSTICE UNIT; JUVENILE JUSTICE DIRECTOR

* * *

(c) The Juvenile Justice Director shall ensure that the following occur:

* * *

(3) cooperation among appropriate departments, including the Department; the Agency of Education; the Departments of Corrections, of Labor, of Mental Health, of Public Safety, and of Disabilities, Aging, and Independent Living; and the ~~Department of Health's Division of Alcohol and Drug Abuse~~ Substance Use Programs;

* * *

* * * Expansion of Drug Disposal Kiosks * * *

Sec. 9. 18 V.S.A. § 4224 is amended to read:

§ 4224. UNUSED PRESCRIPTION DRUG DISPOSAL PROGRAM

(a) The Department of Health shall establish and maintain the Statewide Unused Prescription Drug Disposal Program to provide for the safe disposal of Vermont residents' unused and unwanted prescription drugs. The Program may include establishing secure collection and disposal sites and providing medication envelopes for sending unused prescription drugs to an authorized collection facility for destruction.

(b) Pharmacies that operate 10 or more establishments in the United States, while concurrently conducting business in Vermont, shall enroll in a drug disposal kiosk program not later than December 31, 2022.

* * * Child Fatality Review Team * * *

Sec. 10. 18 V.S.A. § 1561 is amended to read:

§ 1561. CHILD FATALITY REVIEW TEAM

* * *

(g)(4) Confidentiality.

(1)(A) The records produced or acquired by the Team are exempt from public inspection and copying under the Public Records Act and shall be kept confidential. The records of the Team are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action. Nothing in this section shall be construed to limit or restrict the right to discover or use in any civil or criminal proceedings information or records that are available from another source and entirely outside the Team’s review. The Team shall not use the information or records generated during the course of its review for purposes other than those described in this section.

(B) The Department may share deidentified data produced or acquired by the Team with other states that have child fatality review panels, provided access under such agreements is consistent with the privacy, security, and disclosure protections in this chapter.

* * *

* * * Autopsy Reports * * *

Sec. 11. 18 V.S.A. § 5205 is amended to read:

§ 5205. DEATH CERTIFICATE WHEN NO ATTENDING PHYSICIAN
AND IN OTHER CIRCUMSTANCES; AUTOPSY

* * *

(f) The State’s Attorney or Chief Medical Examiner, if either deem it necessary and in the interest of public health, welfare, and safety, or in furtherance of the administration of the law, may order an autopsy to be performed by the Chief Medical Examiner or ~~under his or her~~ the Chief Medical Examiner’s direction. Upon completion of the autopsy, the Chief Medical Examiner shall submit a report to such State’s Attorney and the Attorney General and shall submit a report of death to the State Registrar. Upon the written request of a federal prosecutor or a prosecutor in another state, the Chief Medical Examiner shall submit a report of a death to the requesting office.

* * *

* * * Effective Date * * *

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee Vote: 11-0-0)

H. 466

An act relating to surface water withdrawals and interbasin transfers

Rep. Dolan of Waitsfield, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended as follows:

In Sec. 1, 10 V.S.A. chapter 41, in section 1002, by striking out subdivision (20) in its entirety and inserting in lieu thereof a new subdivision (20) to read as follows:

(20) “Surface water” means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and springs and all bodies of surface waters that are contained within, flow through, or border upon the State or any portion of it. “Surface water” shall not include the following:

(A) groundwater as defined in section 1391 of this title;

(B) artificial waterbodies as defined under section 29A-101(d) of the Vermont Water Quality Standards;

(C) treatment ponds, lagoons, or wetlands created solely to meet the requirements of a permit issued for a discharge; and

(D) constructed ponds or other impoundments that are used for irrigation or watering of livestock and that are not subject to the Vermont Water Quality Standards.

(Committee Vote: 9-2-0)

S. 30

An act relating to prohibiting possession of firearms within hospital buildings

Rep. Notte of Rutland City, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 4023 is added to read:

§ 4023. POSSESSION OF FIREARMS IN HOSPITAL BUILDINGS
PROHIBITED

(a) A person shall not knowingly possess a firearm while within a hospital building.

(b) A person who violates this section shall be fined not more than \$250.00.

(c) This section shall not apply to a firearm possessed by a federal law enforcement officer or a law enforcement officer certified as a law enforcement officer by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. § 2358, for legitimate law enforcement purposes.

(d) Notice of the provisions of this section shall be posted conspicuously at each public entrance to each hospital.

(e) As used in this section:

(1) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(2) "Hospital" has the same meaning as in 18 V.S.A. § 1902.

Sec. 2. 13 V.S.A. § 4019 is amended to read:

§ 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

(a) As used in this section:

* * *

(4) "Licensed dealer" means a person issued a license as a dealer in firearms pursuant to 18 U.S.C. § 923(a).

(5) "Proposed transferee" means an unlicensed person to whom a proposed transferor intends to transfer a firearm.

(6) "Proposed transferor" means an unlicensed person who intends to transfer a firearm to another unlicensed person.

(7) "Transfer" means to transfer ownership of a firearm by means of sale, trade, or gift.

(8) "Unlicensed person" means a person who has not been issued a license as a dealer, importer, or manufacturer in firearms pursuant to 18 U.S.C. § 923(a).

(b)(1) Except as provided in subsection (e) of this section, an unlicensed person shall not transfer a firearm to another unlicensed person unless:

(A) the proposed transferor and the proposed transferee physically appear together with the firearm before a licensed dealer and request that the licensed dealer facilitate the transfer; and

(B) the licensed dealer agrees to facilitate the transfer.

(2) A person shall not, in connection with the transfer or attempted transfer of a firearm pursuant to this section, knowingly make a false statement or exhibit a false identification intended to deceive a licensed dealer with respect to any fact material to the transfer.

* * *

(d) A person shall not transfer a firearm to another person if:

(1) the transfer requires a background check under this section or under federal law; and

(2) the licensed dealer facilitating the transfer has not been provided with a unique identification number for the transfer by the National Instant Criminal Background Check System, provided that if the identification number has not been provided within 30 days, then the transfer may proceed.

~~(d)~~(e)(1) An unlicensed person who transfers a firearm to another unlicensed person in violation of subdivision (b)(1) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(2) A person who violates subdivision (b)(2) or subsection (d) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

~~(e)~~(f) This section shall not apply to:

(1) the transfer of a firearm by or to a law enforcement agency;

(2) the transfer of a firearm by or to a law enforcement officer or member of the U.S. Armed Forces acting within the course of his or her official duties;

(3) the transfer of a firearm from one immediate family member to another immediate family member; or

(4) a person who transfers the firearm to another person in order to prevent imminent harm to any person, provided that this subdivision shall only apply while the risk of imminent harm exists.

~~(f)~~(g) A licensed dealer who facilitates a firearm transfer pursuant to this section shall be immune from any civil or criminal liability for any actions taken or omissions made when facilitating the transfer in reliance on the provisions of this section. This subsection shall not apply to reckless or intentional misconduct by a licensed dealer.

Sec. 3. 13 V.S.A. § 4057 is amended to read:

§ 4057. PROCEDURE

(a) Except as otherwise specified, proceedings commenced under this subchapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

* * *

(d)(1) For purposes of a petition filed pursuant to this subchapter, a health care provider may notify a law enforcement officer when the provider believes in good faith that disclosure of the information is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

(2) As used in this subsection:

(A) “Health care provider” has the same meaning as in 18 V.S.A. § 9402.

(B) “Necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public” includes circumstances when the health care provider reasonably believes that the patient poses an extreme risk of causing harm to themselves or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the patient’s custody or control.

Sec. 4. 13 V.S.A. § 4062 is added to read:

§ 4062. ANNUAL REPORTING; OFFICE OF COURT ADMINISTRATOR AND AGENCY OF HUMAN SERVICES

(a) On or before September 1, 2022 and annually thereafter, the Court Administrator, with the assistance of the Agency of Human Services, shall report data on the use of extreme risk protection orders during the previous year to the Senate and House Committees on Judiciary.

(b) The reports required by this section shall include the following data for the previous year:

(1) the number of extreme risk protection order petitions filed and the number of orders issued;

(2) geographical data indicating the county where the petition was filed; and

(3) follow-up information describing whether the order was renewed or terminated pursuant to section 4055 of this title and whether the subject of the order was charged with violating it under section 4058 of this title.

(c) The Agency of Human Services shall include in the reports required by this section an analysis of the impact of extreme risk prevention orders on Vermont suicide rates, including any relevant data relied on or utilized by the Agency for purposes of providing the information required by 2017 Acts and Resolves No. 34, An act relating to evaluation of suicide profiles.

Sec. 5. 13 V.S.A. § 4021 is amended to read:

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

(a) A person shall not manufacture, possess, transfer, offer for sale, purchase, or receive or import into this State a large capacity ammunition feeding device. As used in this subsection, “import” shall does not include the transportation back into this State of a large capacity ammunition feeding device by the same person who transported the device out of State if the person possessed the device on or before the effective date of this section.

* * *

(d)(1) This section shall not apply to any large capacity ammunition feeding device:

* * *

(F) transported by a resident of another state into this State for the exclusive purpose of use in an organized shooting competition sponsored by an entity registered with the Secretary of State if the device is lawfully possessed under the laws of another state.

* * *

Sec. 6. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff's personal liberty or the personal liberty of the plaintiff's children, or both;

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; ~~and~~

(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication; or

(E) to immediately relinquish, until the expiration of the order, all firearms that are in the defendant's possession, ownership, or control and to refrain from acquiring or possessing any firearms while the order is in effect.

(2) Upon a finding that the plaintiff, ~~his or her~~ or the plaintiff's children, or both, have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.

(3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

* * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(Committee vote:7-4-0)

(For text see Senate Journal March 18, 2021)

Constitutional Proposal

Prop 2 Declaration of rights; clarifying the prohibition on slavery and indentured servitude

Second Day of Four Days requirement on the Notice Calendar pursuant to Rule 51a

Rep. Colston of Winooski for Government Operations.

PROPOSAL 2

Sec. 1. HISTORY; PURPOSE

(a) History. While Vermont was the first state to include a prohibition on slavery in its Constitution in 1777, it was only a partial prohibition, applicable to adults reaching a certain age, “unless bound by the person’s own consent, after arriving to such age, or bound by law for the payment of debts, damages, fines, costs, or the like.” The 13th Amendment to the U.S. Constitution, ratified in 1865, prohibited slavery within the United States “except as a punishment for crime whereof the party shall have been duly convicted[.]” Despite subsequent revisions to it, the Vermont Constitution continues to contain only a partial prohibition on slavery.

(b) Purpose. This proposal would amend the Constitution of the State of Vermont to eliminate reference to slavery. Eliminating reference to slavery in the Vermont Constitution will serve as a foundation for addressing systemic racism in our State’s laws and institutions.

Sec. 2. Article 1 of Chapter I of the Vermont Constitution is amended to read:
Article 1. [All persons born free; their natural rights; ~~slavery prohibited~~]

That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; ~~therefore no person born in this country, or brought from over sea, ought to be holden by law, to serve any person as a servant, slave or apprentice, after arriving to the age of twenty-one~~

~~years, unless bound by the person's own consent, after arriving to such age, or bound by law for the payment of debts, damages, fines, costs, or the like.~~

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2022 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

Public Hearings

Public Hearing on PR 5- Proposed Amendment to the Constitution of the State of Vermont - Subject: Right to personal reproductive freedom - Hearing to be held in House Chamber on January 26, 2022 from 6:00 PM to 8:00 PM-
Hearing held by House Committee on Human Services

Information Notice

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

JFO #3085 – Two (2) limited-service positions to the VT Department of Disabilities, Aging and Independent Living, Division of Vocational Rehabilitation from the Centers for Medicare and Medicaid Services. One (1) VR Program Coordinator to oversee at statewide scholarship, and mentor program for personal care attendants. One (1) VR Assistive Technology Specialist for vocational rehabilitation clients including transition age youth (high school students). Both positions funded through 9/30/2025 by previously approved grant JFO #2510.

[Received January 4, 2022]

JFO #3086 – \$925,840 to the VT Agency of Education from the U.S. Department of Agriculture Food and Nutrition Services. The grant will be used to fund two projects: Phase II of a current IT systems upgrade to improve interconnectivity and data transfer functionalities of the system; and a pilot of the Ed-Fi data model to explore improvements for data transfers between local education agencies, child nutrition programs and other state agencies. Ed-Fi is a national data standard in education. Please see this link for more information on the data system: <https://www.ed-fi.org/>.

[Received January 4, 2022]

