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S.37

2 An act relating to access to legally protected health care activity and  
3 regulation of health care providers

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 \* \* \* Definitions \* \* \*

6 Sec. 1. 1 V.S.A. § 150 is added to read:

7 § 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

8 (a) “Gender-affirming health care services” means all supplies, care, and  
9 services of a medical, behavioral health, mental health, surgical, psychiatric,  
10 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature,  
11 including medications, relating to the treatment of gender dysphoria and  
12 gender incongruence. “Gender-affirming health care services” does not  
13 include conversion therapy as defined by 18 V.S.A. § 8351.

14 (b)(1) “Legally protected health care activity” means:

15 (A) the exercise and enjoyment, or attempted exercise and  
16 enjoyment, by any person of rights to reproductive health care services or  
17 gender-affirming health care services secured by this State;

18 (B) any act or omission undertaken to aid or encourage, or attempt to  
19 aid or encourage, any person in the exercise and enjoyment, or attempted  
20 exercise and enjoyment, of rights to reproductive health care services or  
21 gender-affirming health care services secured by this State, provided that the

1 provision of such a health care service by a person duly licensed under the  
2 laws of this State and physically present in this State shall be legally protected  
3 if the service is permitted under the laws of this State, regardless of the  
4 patient’s location; or

5 (C) the provision, issuance, or use of, or enrollment in, insurance or  
6 other health coverage for reproductive health care services or gender-affirming  
7 health care services that are legal in this State, or any act to aid or encourage,  
8 or attempt to aid or encourage, any person in the provision, issuance, or use of,  
9 or enrollment in, insurance or other health coverage for those services,  
10 regardless of the location of the insured or individual seeking insurance or  
11 health coverage, if the insurance or health coverage is permitted under the laws  
12 of this State.

13 (2) Except as provided in subdivision (3) of this subsection, the  
14 protections applicable to “legally protected health care activity” shall not apply  
15 to a lawsuit, judgment, or civil, criminal, or administrative action that is  
16 based on conduct for which an action would exist under the laws of this State if  
17 the course of conduct that forms the basis for liability had occurred entirely in  
18 this State.

19 (3) Notwithstanding subdivision (2) of this subsection, the provision of a  
20 health care service by a person duly licensed under the laws of this State and  
21 physically present in this State shall be legally protected if the service is

1 permitted under the laws of this State, regardless of the patient’s location or  
2 whether the health care provider is licensed in the state where the patient is  
3 located at the time the service is rendered.

4 (c)(1) “Reproductive health care services” means all supplies, care, and  
5 services of a medical, behavioral health, mental health, surgical, psychiatric,  
6 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature,  
7 **including medication,** relating to pregnancy, contraception, assisted  
8 reproduction, pregnancy loss management, or the termination of a pregnancy.

9 **(2) “Reproductive health care services” includes medication that**  
10 **was approved by the U.S. Food and Drug Administration (FDA) for**  
11 **termination of a pregnancy as of January 1, 2023, regardless of the**  
12 **medication’s current FDA approval status:**

13 **(A) when such medication is procured, ordered, stored,**  
14 **distributed, prescribed, dispensed, or administered, or a combination**  
15 **thereof, by a person duly licensed under the laws of this State, as long as**  
16 **the licensee’s actions conform to the essential standards of acceptable and**  
17 **prevailing practice for the licensee’s profession; or**

18 **(B) when such medication is used by an individual.**

19 \* \* \* Medical Malpractice \* \* \*

20 Sec. 2. 8 V.S.A. chapter 129 is amended to read:

21 CHAPTER 129. INSURANCE TRADE PRACTICES

1 \* \* \*

2 § 4722. DEFINITIONS

3 \* \* \*

4 (4)(A) “Abusive litigation” means litigation or other legal action to  
5 deter, prevent, sanction, or punish any person engaging in legally protected  
6 health care activity by:

7 (i) filing or prosecuting any action in any other state where  
8 liability, in whole or part, directly or indirectly, is based on legally protected  
9 health care activity that occurred in this State, including any action in which  
10 liability is based on any theory of vicarious, joint, or several liability derived  
11 therefrom; or

12 (ii) attempting to enforce any order or judgment issued in  
13 connection with any such action by any party to the action or any person acting  
14 on behalf of a party to the action.

15 (B) A lawsuit shall be considered to be based on conduct that  
16 occurred in this State if any part of any act or omission involved in the course  
17 of conduct that forms the basis for liability in the lawsuit occurs or is initiated  
18 in this State, whether or not such act or omission is alleged or included in any  
19 pleading or other filing in the lawsuit.

20 (5) “Legally protected health care activity” has the same meaning as in 1  
21 V.S.A. § 150.

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§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR

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DECEPTIVE ACTS OR PRACTICES DEFINED

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The following are hereby defined as unfair methods of competition or unfair

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or deceptive acts or practices in the business of insurance:

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\* \* \*

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(7) Unfair discrimination; arbitrary underwriting action.

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(A) Making or permitting any unfair discrimination between insureds

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of the same class and equal risk in the rates charged for any contract of

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insurance, or in the dividends or other benefits payable thereon, or in any other

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of the terms and conditions of such contracts.

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\* \* \*

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(F)(i) Discriminating against a health care provider, as defined by

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18 V.S.A. § 9496, or adjusting or otherwise calculating a health care provider's

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risk classification or premium charges on the basis that:

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(I) the health care provider provides or assists in the provision

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of legally protected health care activity that is unlawful in another state;

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(II) another state's laws create potential or actual liability for

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that activity;

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(III) abusive litigation against a provider concerning legally

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protected health care activity resulted in a claim, settlement, or judgement

1 against the provider; or

2 (IV) the license of the provider has been disciplined in any way  
3 by another state based solely on the provider’s provision of legally protected  
4 health care activity.

5 (ii) For purposes of this subdivision (F), it shall not be unfairly  
6 discriminatory nor an arbitrary underwriting action against a health care  
7 provider if the risk classifications, premium charges, or other underwriting  
8 considerations are based on factors other than those listed in subdivision (i) of  
9 this subdivision (F).

10 \* \* \*

11 \* \* \* Insurance Coverage \* \* \*

12 Sec. 3. 8 V.S.A. § 4088m is added to read:

13 § 4088m. COVERAGE FOR GENDER-AFFIRMING HEALTH CARE

14 SERVICES

15 (a) Definitions. As used in this section:

16 (1) “Gender-affirming health care services” has the same meaning as in  
17 1 V.S.A. § 150.

18 (2) “Health insurance plan” means Medicaid and any other public health  
19 care assistance program, any individual or group health insurance policy, any  
20 hospital or medical service corporation or health maintenance organization  
21 subscriber contract, or any other health benefit plan offered, issued, or renewed

1 for any person in this State by a health insurer as defined by 18 V.S.A. § 9402.  
2 For purposes of this section, health insurance plan includes any health benefit  
3 plan offered or administered by the State or any subdivision or instrumentality  
4 of the State. The term does not include benefit plans providing coverage for a  
5 specific disease or other limited benefit coverage, except that it includes any  
6 accident and sickness health plan.

7 (b) Coverage.

8 (1) A health insurance plan shall provide coverage for gender-affirming  
9 health care services that:

10 (A) are medically necessary and clinically appropriate for the  
11 individual's diagnosis or health condition; and

12 (B) are included in the State's essential health benefits benchmark  
13 plan.

14 (2) Coverage provided pursuant to this section by Medicaid or any other  
15 public health care assistance program shall comply with all federal  
16 requirements imposed by the Centers for Medicare and Medicaid Services.

17 (3) Nothing in this section shall prohibit a health insurance plan from  
18 providing greater coverage for gender-affirming health care services than is  
19 required under this section.

20 (c) Cost sharing. A health insurance plan shall not impose greater  
21 coinsurance, co-payment, deductible, or other cost-sharing requirements for

1 coverage of gender-affirming health care services than apply to the diagnosis  
2 and treatment of any other physical or mental condition under the plan.

3 Sec. 4. 8 V.S.A. § 4099e is added to read:

4 § 4099e. COVERAGE FOR ABORTION AND ABORTION-RELATED  
5 SERVICES

6 (a) Definitions. As used in this section:

7 (1) “Abortion” means any medical treatment intended to induce the  
8 termination of, or to terminate, a clinically diagnosable pregnancy except for  
9 the purpose of producing a live birth.

10 (2) “Health insurance plan” means Medicaid and any other public health  
11 care assistance program, any individual or group health insurance policy, any  
12 hospital or medical service corporation or health maintenance organization  
13 subscriber contract, or any other health benefit plan offered, issued, or renewed  
14 for any person in this State by a health insurer as defined by 18 V.S.A. § 9402.  
15 For purposes of this section, health insurance plan shall include any health  
16 benefit plan offered or administered by the State or any subdivision or  
17 instrumentality of the State. The term shall not include benefit plans providing  
18 coverage for a specific disease or other limited benefit coverage, except that it  
19 shall include any accident and sickness health plan.

20 (b) Coverage. A health insurance plan shall provide coverage for abortion  
21 and abortion-related care.



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(7) Willfully making or filing false reports or records in the practice of the profession, willfully impeding or obstructing the proper making or filing of reports or records, ~~or~~ willfully failing to file the proper reports or records, or willfully providing inaccurate health or medical information to a patient, including purposeful misrepresentation of a patient's health status.

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(29) Providing or claiming to provide services or medications that are purported to reverse the effects of a medication abortion.

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(f)(1) Health care providers. Notwithstanding subsection (e) of this section or any other law to the contrary, no health care provider **who is certified, registered, or licensed in Vermont** shall be subject to professional disciplinary action by a board or the Director, nor shall a board or the Director take adverse action on an application for certification, registration, or licensure of a qualified health care provider, based solely on:

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(A) the health care provider providing or assisting in the provision of legally protected health care activity; or

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(B) a criminal, ~~or~~ civil, ~~action~~ or disciplinary action **in another state** against the health care provider **by a licensing board of another state, that is** based solely on the provider providing or assisting in the provision of legally

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1 protected health care activity.

2 (2) Definitions. As used in this subsection:

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

4 § 9496 means a person who provides professional health care services to

5 an individual during that individual’s medical care, treatment, or

6 confinement.

7 (B) “Health care services” means services for the diagnosis,

8 prevention, treatment, cure, or relief of a physical or mental health

9 condition, including procedures, products, devices, and medications.

10 (C) “Legally protected health care activity” has the same meaning as  
11 in 1 V.S.A. § 150.

12 Sec. 7. 26 V.S.A. § 1354 is amended to read:

13 § 1354. UNPROFESSIONAL CONDUCT

14 \* \* \*

15 (d)(1) Health care providers. Notwithstanding any other law to the

16 contrary, no health care provider **who is certified, registered, or licensed in**

17 **Vermont** shall be subject to professional disciplinary action by the Board, nor

18 shall the Board take adverse action on an application for certification,

19 registration, or licensure of a qualified health care provider, based solely on:

20 (A) the health care provider providing or assisting in the provision of

21 legally protected health care activity; or



1 common across the country, including in Vermont. Accurate information  
2 about the services that a limited-services pregnancy center performs, in  
3 addition to forthright acknowledgement of its limitations, is essential to enable  
4 pregnant individuals in this State to make informed decisions about their care.  
5 This includes individuals being informed of whether they are receiving  
6 services from a licensed and qualified health care provider at a limited-services  
7 pregnancy center, as this allows individuals to determine if they need to seek  
8 medical care elsewhere in order to continue or terminate a pregnancy.

9 (2) Although some limited-services pregnancy centers openly  
10 acknowledge in their advertising, on their websites, and at their facilities that  
11 they neither provide abortions nor refer clients to other providers of abortion  
12 services, others provide confusing and misleading information to pregnant  
13 individuals contemplating abortion by leading those individuals to believe that  
14 their facilities offer abortion services and unbiased counseling. Many Some  
15 limited-services pregnancy centers have promoted patently false or biased  
16 medical claims about abortion, pregnancy, contraception, and reproductive  
17 health care providers.

18 (3) False and misleading advertising by centers that do not offer or refer  
19 clients for abortion is of special concern to the State because of the time-  
20 sensitive and constitutionally protected nature of the decision to continue or  
21 terminate a pregnancy. When a pregnant individual is misled into believing

1 that a center offers services that it does not in fact offer or receives false or  
2 misleading information regarding health care options, the individual loses time  
3 crucial to the decision whether to terminate a pregnancy and may lose the  
4 option to choose a particular method or to terminate a pregnancy at all.

5 (4) Telling the truth is how trained health care providers demonstrate  
6 respect for patients, foster trust, promote self-determination, and cultivate an  
7 environment where best practices in shared decision-making can flourish.  
8 Without veracity in information and communication, it is difficult for  
9 individuals to make informed, voluntary choices **that are** essential **in fulfilling**  
10 **autonomy-based obligations to one's sense of personal agency and**  
11 **autonomy.**

12 (5) Advertising strategies and educational information about health care  
13 options that lack transparency, use misleading or ambiguous terminology,  
14 misrepresent or obfuscate services provided, or provide factually inaccurate  
15 information are a form of manipulation that disrespects individuals,  
16 undermines trust, broadens health disparity, and can result in patient harm.

17 (b) Intent.

18 (1) It is the intent of the General Assembly to ensure that the public is  
19 provided with accurate, factual information about the types of health care  
20 services that are available to pregnant individuals in this State. The General  
21 Assembly respects the constitutionally protected right of each individual to

1 personal reproductive autonomy, which includes the right to receive clear,  
2 honest, and nonmisleading information about the individual’s options and to  
3 make informed, voluntary choices after considering all relevant information.

4 (2) The General Assembly respects the right of limited-services  
5 pregnancy centers to counsel individuals against abortion, and nothing in this  
6 subchapter should be construed to regulate, limit, or curtail such advocacy.

7 § 2492. DEFINITIONS

8 As used in this subchapter:

9 (1) “Abortion” means any medical treatment intended to induce the  
10 termination of, or to terminate, a clinically diagnosable pregnancy except for  
11 the purpose of producing a live birth.

12 (2) “Client” means an individual who is inquiring about or seeking  
13 services at a pregnancy services center.

14 (3) “Emergency contraception” means any drug approved by the U.S.  
15 Food and Drug Administration as a contraceptive method for use after sexual  
16 intercourse, whether provided over the counter or by prescription.

17 (4) “Health information” means any oral or written information in any  
18 form or medium that relates to health insurance or the past, present, or future  
19 physical or mental health or condition of a client.

20 (5) “Limited-services pregnancy center” means a pregnancy services  
21 center that does not directly provide, or provide referrals to clients, for

1 abortions or emergency contraception.

2 (6) “Pregnancy services center” means a facility, including a mobile  
3 facility, where the primary purpose is to provide services to individuals who  
4 are or may be pregnant and that either offers obstetric ultrasounds, obstetric  
5 sonograms, or prenatal care to pregnant individuals or has the appearance of a  
6 medical facility. A pregnancy services center has the appearance of a medical  
7 facility if two or more of the following factors are present:

8 (A) The center offers pregnancy testing or pregnancy diagnosis, or  
9 both.

10 (B) The center has staff or volunteers who wear medical attire or  
11 uniforms.

12 (C) The center contains one or more examination tables.

13 (D) The center contains a private or semiprivate room or area  
14 containing medical supplies or medical instruments.

15 (E) The center has staff or volunteers who collect health information  
16 from clients.

17 (F) The center is located on the same premises as a State-licensed  
18 medical facility or provider or shares facility space with a State-licensed  
19 medical provider.

20 (7) “Premises” means land and improvements or appurtenances or any  
21 part thereof.

1 § 2493. UNFAIR AND DECEPTIVE ACT

2 (a) It is an unfair and deceptive act and practice in commerce and a  
3 violation of section 2453 of this title for any limited-services pregnancy center  
4 to disseminate or cause to be disseminated to the public any advertising about  
5 the services or proposed services performed at that center that is untrue or  
6 clearly designed to mislead the public about the nature of services provided.  
7 Advertising includes representations made directly to consumers; marketing  
8 practices; communication in any print medium, such as newspapers,  
9 magazines, mailers, or handouts; and any broadcast medium, such as television  
10 or radio, telephone marketing, or advertising over the Internet such as through  
11 websites and web ads. For purposes of this chapter, advertising or the  
12 provision of services by a limited-services pregnancy center is an act in  
13 commerce.

14 (b) The medical director of a pregnancy services center, or the individual  
15 charged with supervising health care services provided by center staff or  
16 volunteers at a pregnancy services center, shall be responsible, legally and  
17 professionally, for the activities of staff and volunteers performing duties for  
18 and on behalf of the pregnancy services center. The medical director or  
19 individual shall ensure that the staff of the pregnancy services center, including  
20 the medical director or individual, and any volunteers providing health care  
21 services maintain a level of supervision, training, and practice consistent with

1 legal requirements established under Vermont law, including those set forth in  
2 Title 26, and professional standards of practice. Failure to conduct or to ensure  
3 that health care services are conducted in accordance with State law and  
4 professional standards of practice may constitute unprofessional conduct under  
5 3 V.S.A. § 129a and 26 V.S.A. § 1354. **Health care providers licensed**  
6 under Title 26 of the Vermont Statutes Annotated who are employed by,  
7 contracted to provide services for or on behalf of, or volunteer to provide  
8 services at a limited-services pregnancy center shall be responsible for  
9 conducting and providing health care services, information, and  
10 counseling at the center. The failure of a health care professional licensed  
11 under Title 26 of the Vermont Statutes Annotated to conduct or to ensure  
12 that health care services, information, and counseling at the limited-  
13 services pregnancy services center are conducted in accordance with State  
14 law and professional standards of practice may constitute unprofessional  
15 conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354.

16 (c) The Attorney General has the same authority to make rules, conduct  
17 civil investigations, and bring civil actions with respect to violations of  
18 subsection (a) of this section as provided under subchapter 1 of this chapter.

19 \* \* \* Reports; Interstate Compacts \* \* \*

20 Sec. 9. AGENCY OF HUMAN SERVICES; GREEN MOUNTAIN CARE  
21 BOARD; ACCESS TO REPRODUCTIVE HEALTH AND

1 **GENDER AFFIRMING CARE SERVICES**

2 ~~(a) The Agency of Human Services shall include access to reproductive~~  
3 ~~health care services and access to gender affirming health care services as~~  
4 ~~indicators for equitable access to health care in its Community Profiles of~~  
5 ~~Health and Well Being analysis.~~

6 ~~(b) The Green Mountain Care Board shall include reproductive health care~~  
7 ~~service and gender affirming health care service needs in the Health Resource~~  
8 ~~Allocation Plan analysis pursuant to 18 V.S.A. § 9405.~~

9 **18 V.S.A. § 9405 is amended to read:**

10 **§ 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE**

11 **ALLOCATION PLAN**

12 \* \* \*

13 (b) The Green Mountain Care Board, in consultation with the Secretary of  
14 Human Services or designee, shall publish on its website the Health Resource  
15 Allocation Plan identifying Vermont's critical health needs, goods, services,  
16 and resources, which shall be used to inform the Board's regulatory processes,  
17 cost containment and statewide quality of care efforts, health care payment and  
18 delivery system reform initiatives, and any allocation of health resources  
19 within the State. The Plan shall identify Vermont residents' needs for health  
20 care services, programs, and facilities; the resources available and the  
21 additional resources that would be required to realistically meet those needs

1 and to make access to those services, programs, and facilities affordable for  
2 consumers; and the priorities for addressing those needs on a statewide basis.  
3 The Board may expand the Plan to include resources, needs, and priorities  
4 related to the social determinants of health. The Plan shall be revised  
5 periodically, but not less frequently than once every four years.

6 \* \* \*

7 (3) The Board shall receive and consider public input on the Plan at a  
8 minimum of one Board meeting and one meeting of the Advisory Committee  
9 and shall give interested persons an opportunity to submit their views orally  
10 and in writing.

11 (4) **The Board shall include reproductive health care services and**  
12 **gender-affirming health care services, as those terms are defined in**  
13 **1 V.S.A. § 150, in its Plan analysis.**

14 (5) As used in this section:

15 (A) “Health resources” means investments into the State’s health care  
16 system, including investments in personnel, equipment, and infrastructure  
17 necessary to deliver:

18 \* \* \*

19 **Sec. 9a. AGENCY OF HUMAN SERVICES; STATE HEALTH**

20 **ASSESSMENT; COMMUNITY PROFILES**

21 **The Agency of Human Services shall work with LGBTQA+ community**

1 **stakeholders and health care providers during the upcoming State Health**  
2 **Assessment and Community Profiles community engagement processes to**  
3 **explore barriers to equitable access to gender-affirming health care**  
4 **services, as defined in 1 V.S.A. § 150.**

5 Sec. 10. BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL  
6 REGULATION; INTERSTATE COMPACTS; REPORT

7 On or before November 1, **2024 2025**, the Office of Professional  
8 Regulation, in consultation with the Board of Medical Practice, shall submit a  
9 report to the House Committee on Health Care and the Senate Committee on  
10 Health and Welfare with findings and recommendations for legislative action  
11 to address any concerns regarding the State’s participation, or contemplated  
12 participation, in interstate licensure compacts as a result of the provisions of  
13 this act, including the State’s participation in the Nurse Licensure Compact  
14 pursuant to 26 V.S.A. chapter 28, subchapter 5 and the Interstate Medical  
15 Licensure Compact pursuant to 26 V.S.A. chapter 23, subchapter 3A.

16 Sec. 10a. 26 V.S.A. chapter 56 is amended to read:

17 CHAPTER 56. OUT-OF-STATE TELEHEALTH LICENSURE &  
18 REGISTRATION AND INTERSTATE COMPACTS

19 Subchapter 1. Out-of-State Telehealth Licensure And Registration

20 \* \* \*

21 Subchapter 2. Interstate Compacts; Health Care Provider Compacts

1 § 3071. HEALTH CARE PROVIDER COMPACTS; DIRECTION TO  
2 VERMONT REPRESENTATIVES

3 (a) The General Assembly finds that a state’s prohibition of or limitation on  
4 the provision of gender-affirming health care services or reproductive health  
5 care services, or both, as defined by 1 V.S.A. § 150, prohibits health care  
6 providers from following health care best practices and is a failure on the part  
7 of the state to provide health care services that are medically necessary and  
8 clinically appropriate for its residents. Therefore, it is the General Assembly’s  
9 intent to protect the ability of professionals licensed, certified, or registered in  
10 Vermont, and **applicants professionals** from other member states seeking to  
11 practice a profession in Vermont pursuant to an interstate compact or  
12 agreement, to have the benefit of compacts and agreements while at the same  
13 time engaging in, providing, or otherwise facilitating, personally or  
14 professionally, gender-affirming health care and reproductive health care  
15 services.

16 (b) Vermont’s representative or delegate for an interstate compact or  
17 agreement related to health care shall seek an amendment or exception to the  
18 **compact or agreement** language, rules, **directives,** or bylaws **of the compact**  
19 **or agreement,** as necessary, so that if a licensee is disciplined by another state  
20 solely for providing or assisting in the provision of gender-affirming health  
21 care services or reproductive health care services that would be legal and meet

1 professional standards of care if provided in Vermont, the compact or  
2 agreement does not require that Vermont take professional disciplinary action  
3 against the licensee.

4 \* \* \* Emergency Contraception \* \* \*

5 Sec. 11. 26 V.S.A. chapter 36, subchapter 1 is amended to read:

6 Subchapter 1. General Provisions

7 \* \* \*

8 § 2022. DEFINITIONS

9 As used in this chapter:

10 \* \* \*

11 (22) “Emergency contraception” means any drug approved by the U.S.  
12 Food and Drug Administration as a contraceptive method for use after sexual  
13 intercourse, whether provided over the counter or by prescription.

14 § 2023. CLINICAL PHARMACY; PRESCRIBING

15 \* \* \*

16 (b) A pharmacist may prescribe in the following contexts:

17 \* \* \*

18 (2) State protocol.

19 (A) A pharmacist may prescribe, order, or administer in a manner  
20 consistent with valid State protocols that are approved by the Commissioner of  
21 Health after consultation with the Director of Professional Regulation and the

1 Board and the ability for public comment:

2 \* \* \*

3 (ix) emergency prescribing of albuterol or glucagon while  
4 contemporaneously contacting emergency services; ~~and~~

5 (x) tests for SARS-CoV for asymptomatic individuals or related  
6 serology for individuals by entities holding a Certificate of Waiver pursuant to  
7 the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a); and

8 (xi) emergency contraception.

9 \* \* \*

10 Sec. 11a. 26 V.S.A. § 2077 is added to read:

11 § 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

12 (a) A retail or institutional drug outlet licensed under this chapter or a  
13 postsecondary school, as defined in and subject to 16 V.S.A. § 176, may make  
14 over-the-counter emergency contraception and other nonprescription drugs or  
15 articles for the prevention of pregnancy or conception available through a  
16 vending machine or similar device.

17 (b) **Notwithstanding any provision of subsection 2032(h) of this chapter**  
18 **to the contrary,** the Board may adopt rules in accordance with 3 V.S.A.  
19 chapter 25 to regulate the location, operation, utilization, and oversight of the  
20 vending machines and similar devices described in subsection (a) of this  
21 section in a manner that balances consumer access with appropriate safeguards

1 for theft prevention and safety.

2 \* \* \* Higher Education; Health Care Services \* \* \*

3 Sec. 12. 16 V.S.A. chapter 78 is added to read:

4 CHAPTER 78. ACCESS TO REPRODUCTIVE AND GENDER-

5 AFFIRMING HEALTH CARE SERVICES

6 § 2501. DEFINITIONS

7 As used in this chapter:

8 (1) “Gender-affirming health care readiness” means each institution’s  
9 preparedness to provide gender-affirming health care services to students or  
10 assist students in obtaining gender-affirming health care services, including  
11 having in place equipment, protocols, patient educational materials,  
12 informational websites, and training for staff; provided, however, that gender-  
13 affirming health care readiness may include the provision of gender-affirming  
14 health care services.

15 (2) “Gender-affirming health care services” has the same meaning as in  
16 1 V.S.A. § 150.

17 (3) “Institution” means the University of Vermont or a college in the  
18 Vermont State College system.

19 (4) “Medication abortion” means an abortion provided by medication  
20 techniques.

21 (4) “Reproductive health care services” has the same meaning as in 1

1 V.S.A. § 150 and includes medication abortion.

2 (5) “Reproductive health care readiness” means each institution’s  
3 preparedness to provide reproductive health care services to students or assist  
4 students in obtaining reproductive health care services, including having in  
5 place equipment, protocols, patient educational materials, informational  
6 websites, and training for staff; provided, however, that reproductive health  
7 care readiness may include the provision of reproductive health care services.

8 (6) “Telehealth” has the same meaning as in 26 V.S.A. § 3052.

9 § 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE  
10 HEALTH CARE READINESS; REPORTS

11 (a) Each institution shall report to the Agency of Human Services annually,  
12 on or before November 1, on the current status of its gender-affirming health  
13 care and reproductive health care readiness, including:

14 (1) whether the institution has an operational health center on campus;

15 (2) whether the institution employs health care providers on campus;

16 (3) the types of gender-affirming health care services and reproductive  
17 health care services that the institution offers to its students on campus and the  
18 supports that the institution provides to students who receive those services;

19 (4) the institution’s efforts to assist students with obtaining gender-  
20 affirming health care services and reproductive health care services from  
21 licensed health care professionals through telehealth;



1 affirming health care and reproductive health care readiness as required under  
2 16 V.S.A. § 2502(a) to the Agency of Human Services on or before November  
3 1, 2023, and the Agency shall provide its first legislative report on or before  
4 January 31, 2024.

5 \* \* \* Prohibition on Disclosure of Protected Health Information \* \* \*

6 Sec. 14. 18 V.S.A. § 1881 is amended to read:

7 § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION

8 PROHIBITED

9 (a) As used in this section:

10 (1) “Business associate” has the same meaning as in 45 C.F.R.  
11 § 160.103.

12 (2) “Covered entity” ~~shall have~~ has the same meaning as in 45 C.F.R.  
13 § 160.103.

14 (3) “Legally protected health care activity” has the same meaning as in  
15 1 V.S.A. § 150.

16 ~~(2)(4)~~ “Protected health information” ~~shall have~~ has the same meaning  
17 as in 45 C.F.R. § 160.103.

18 **(5) “Telehealth” has the same meaning as in 26 V.S.A. § 3052.**

19 (b) A covered entity or business associate shall not disclose protected  
20 health information unless the disclosure is permitted under the Health  
21 Insurance Portability and Accountability Act of 1996 (HIPAA).

1       (c) In order to protect patients and providers who engage in legally  
2 protected health care activity, a covered entity or business associate shall not  
3 disclose protected health information related to a legally protected health care  
4 activity for use in a civil or criminal action; a proceeding preliminary to a civil  
5 or criminal action; or a probate, legislative, or administrative proceeding unless  
6 the disclosure meets one or more of the following conditions:

7           (1) The disclosure is authorized by the patient or the patient’s  
8 conservator, guardian, or other authorized legal representative.

9           (2) The disclosure is specifically required by federal law, Vermont law,  
10 or rules adopted by the Vermont Supreme Court.

11           (3) The disclosure is ordered by a court of competent jurisdiction  
12 pursuant to federal law, Vermont law, or rules adopted by the Vermont  
13 Supreme Court. An order compelling disclosure under this subdivision shall  
14 include the court’s determination that good cause exists to require disclosure of  
15 the information related to legally protected health care activity.

16           (4) The disclosure is to be made to a person designated by the covered  
17 entity or business associate and will be used solely in the defense of the  
18 covered entity or business associate against a claim that has been made, or  
19 there is a reasonable belief will be made, against the covered entity or business  
20 associate in a civil or criminal action, a proceeding preliminary to a civil or  
21 criminal action, or a probate, legislative, or administrative proceeding.



1 2024 on such date as a health insurer offers, issues, or renews the health  
2 insurance plan, but in no event later than January 1, 2025.

3 (c) Sec. 5 (state plan amendment) shall take effect on January 1, 2024,  
4 except that the Agency of Human Services shall submit its request for approval  
5 of Medicaid coverage of the services prescribed in Sec. 4 of this act, if needed,  
6 to the Centers for Medicare and Medicaid Services on or before July 1, 2023,  
7 and the Medicaid coverage shall begin on the later of the date of approval or  
8 January 1, 2024.

9 (d) Sec. 10a (interstate compacts; state representatives) shall take effect on  
10 July 1, 2023.

11 (e) Sec. 11 (emergency contraception) shall take effect on or before  
12 September 1, 2023, on such date as the Commissioner of Health approves the  
13 State protocol.