

February 13, 2023

Senator Ginny Lyons, Chair  
Senator David Weeks, Vice Chair  
Senator Ruth Hardy  
Senator Martine Gulick  
Senator Terry Williams

Dear Members of the Senate Health and Welfare Committee,

Blue Cross and Blue Shield of Vermont is strongly in favor of legislation that protects our members' access to abortion and gender affirming care. As part of the effort to protect access to care, we need to protect payers as well – employers, insurers and individuals who provide coverage for these services. We would ask you to consider the following changes to S.37 that we discussed with the Committee last week.

**Definitions of Legally Protected Health Care Activity:**

We asked that statute to be explicit and would ask that the definitions of both reproductive health care services and gender-affirming health care services to be amended say “including providing insurance coverage for any of the foregoing” that has been added to the companion bill H.89.

Insurance coverage for abortion and gender affirming care is included in the [Vermont Essential Health Benefits Benchmark Plan](#) and therefore is already required in Vermont. We are concerned about the contradictory and unusually expansive definitions, especially of gender affirming care, between the new proposed statutory mandate and existing requirements elsewhere in state regulations, rules, and guidelines.

**Definition of gender affirming care**

- Align definition with Department of Financial Regulation [Insurance Bulletin #174](#)
- Treatments and guidelines for care are constantly evolving and need to allow for flexibility and adjustments to the latest standards of care.
- Coordinate with the Department of Vermont Health Access' request to include medical necessity and other revisions to the definition.

**Eliminating cost share for abortion and gender affirming care:**

- Eliminating cost-share either increases premiums or, in the case of Qualified Health Plans sold on the Exchange that have federally mandated actuarial values (AV), increases the costs of other necessary services.
- [IRS regulations](#) prohibit “first-dollar” coverage for High Deductible Health Plans (HDHP) that are paired with Health Savings Accounts and Health Reimbursement Accounts (HSAs and HRAs). Please include an exemption for these plans: “except to the extent that such coverage would disqualify a high-deductible health plan from eligibility for a health savings

account pursuant to 26 U.S.C. § 223” if you choose to move forward with this section.

- There is very limited applicability of the no cost-share provision and often, the people with the highest out-of-pocket costs are the ones who will not benefit from this change. Self-funded employer plans which are the lions share of the commercial market are excluded, along with fully insured people with HDHPs.

We support your efforts to protect access to abortion and gender affirming care for patients, providers and payers. Please consider these suggestions to your approach that build on long-established health insurance coverage for these services in Vermont.

Sincerely,

A handwritten signature in black ink that reads "Sara Teachout". The signature is written in a cursive, flowing style.

Sara Teachout  
Corporate Director, Government and Media Relations