

1 H.512

2 Introduced by Representative McFaun of Barre Town

3 Referred to Committee on

4 Date:

5 Subject: Health; hospital services; medical malpractice; loan forgiveness

6 Statement of purpose: This bill would provide access to and coverage for  
7 health services provided in hospitals, build on Catamount Health, and offer  
8 opportunities for premium relief to all Vermonters. The bill would establish a  
9 global hospital budget for the state and an individual hospital budget for each  
10 hospital in the state. It would establish a Vermont hospital security trust fund  
11 from which a negotiated payment would be made to each hospital for health  
12 services provided. The bill would require health insurers to disclose to the  
13 department of banking, insurance, securities, and health care administration the  
14 rates they negotiate with providers and would direct the department to post the  
15 information on its website. It would make medical malpractice claims subject  
16 to arbitration and would establish a loan repayment program for health care  
17 professionals practicing exclusively in Vermont hospitals.

18 An act relating to a Vermont hospital security plan

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

1 Sec. 1. 33 V.S.A. chapter 19, subchapter 6 is added to read:

2 Subchapter 6. Vermont Hospital Security Plan

3 § 2031. PURPOSE

4 The purpose of this subchapter is to provide all Vermonters access to and  
5 coverage for health services provided in hospitals and provide the opportunity  
6 to reduce hospital and related administrative costs. The general assembly  
7 recognizes that the health care system is in crisis, and that all Vermonters do  
8 not have the financial ability to pay for increasing health insurance premiums  
9 or for the rising costs of health care. Vermonters need access to hospital care,  
10 regardless of ability to pay or insurance coverage. Additionally, the state must  
11 seek financial sustainability of the health care system, including reducing  
12 health care spending and transaction costs. The general assembly recognizes  
13 that health care reform, in addition to Catamount Health, is needed to provide  
14 coverage of essential health services to Vermonters.

15 § 2032. DEFINITIONS

16 As used in this subchapter:

17 (1) "Agency" means the agency of human services.

18 (2) "Commissioner" means the commissioner of banking, insurance,  
19 securities, and health care administration.

20 (3) "Division" means the division of health care administration of the  
21 department of banking, insurance, securities, and health care administration.

1           (4) “Health service” means any medically necessary treatment or  
2 procedure to maintain, diagnose, or treat an individual’s physical or mental  
3 condition, including services ordered by a health care professional and  
4 medically necessary services to assist in activities of daily living.

5           (5) “Hospital” shall have the same meaning as in section 1902 of Title  
6 18 and may include hospitals located out of state.

7           (6) “Secretary” means the secretary of the agency of human services.

8           (7) “Vermont resident” means an individual domiciled in Vermont as  
9 evidenced by an intent to maintain a principal dwelling place in Vermont  
10 indefinitely and to return to Vermont if temporarily absent, coupled with an act  
11 or acts consistent with that intent.

12           § 2033. VERMONT HOSPITAL SECURITY PLAN

13           (a)(1) The agency of human services or designee shall administer the  
14 Vermont hospital security plan to provide Vermont residents with access to  
15 and coverage for health services received in a hospital and for payments to  
16 hospitals for health services provided.

17           (2) Vermonters eligible for Catamount Health or a federally funded  
18 health care program shall be eligible for coverage of any benefits provided by  
19 the Vermont hospital security plan that are not covered by Catamount Health  
20 or the federally funded health care program. For purposes of this subdivision,  
21 “federally funded health care program” means Medicare, Medicaid, the

1 Vermont health access plan, Dr. Dynasaur, VPharm, VermontRx, Catamount  
2 Health assistance, employer-sponsored insurance premium assistance, another  
3 Medicaid-waiver program, or any other program covering health benefits using  
4 federal funding.

5 (b) The Vermont hospital security plan shall:

6 (1) provide each hospital in the state with a negotiated annual payment  
7 based upon the individual budget of the hospital for health services provided  
8 by that hospital to all patients, including patients who are not Vermont  
9 residents;

10 (2) provide for the collection of payments for health services provided  
11 by hospitals in the state to patients who are not residents of the state, which  
12 may be by the agency or by a third party administrator under contract with the  
13 agency for this purpose; and

14 (3) provide for payments for health services to hospitals not located in  
15 the state provided by them to Vermont residents.

16 (c) The agency shall establish by rule income-sensitized deductibles,  
17 co-payments, an annual hospital care fee, or other cost-sharing amounts  
18 applicable to the Vermont hospital security plan established by this subchapter.

19 (d) A beneficiary aggrieved by an adverse decision of the agency may  
20 appeal to the human services board as provided for in section 3090 of Title 3.

1       (e) Vermont residents accessing health services at a hospital shall be  
2       considered Medicare beneficiaries for purposes of chapter 65 of this title  
3       (Medicare balance billing).

4       § 2034. GLOBAL HOSPITAL BUDGETS

5       (a) Annually, the commissioner of banking, insurance, securities, and  
6       health care administration, in collaboration with the secretary, shall develop a  
7       global hospital budget for the state and individual hospital budgets for each  
8       hospital located in Vermont. The commissioner shall consider the portions of  
9       the health resource allocation plan under section 9405 of Title 18 applicable to  
10       hospitals, the portions of the unified health care budget under section 9406 of  
11       Title 18 applicable to hospitals, the hospital budgets reviewed under section  
12       9456 of Title 18, the negotiated global hospital payments under section 2035 of  
13       this title, and all other revenue received by hospitals in the development of the  
14       global hospital budget. The global hospital budget for the state shall be  
15       reported annually to the general assembly on or before January 15 for the  
16       following fiscal year and shall not be effective until approved or modified by  
17       the general assembly.

18       (b)(1) The global hospital budget for the state shall serve as a spending cap  
19       within which hospital costs may be controlled, resources directed, and quality  
20       and access assured. The global hospital budget shall limit the total annual  
21       growth of hospital costs to the Consumer Price Index plus three percent, except

1 that hospitals may raise funds through charitable contributions for a capital  
2 investment project.

3 (2) The commissioner shall ensure that the review of individual hospital  
4 budgets under subchapter 7 of chapter 221 of Title 18 or the certificate of need  
5 requests under subchapter 5 of chapter 221 of Title 18 are consistent with the  
6 global hospital budget.

7 (c) The commissioner shall adopt by rule standards and procedures  
8 necessary to implement this section.

9 § 2035. NEGOTIATED GLOBAL HOSPITAL PAYMENTS

10 The secretary shall negotiate with hospitals for a global hospital payment  
11 for health services provided by the Vermont hospital security plan. The  
12 payment amount shall be based upon the global hospital budget developed  
13 under section 2304 of this title and other information necessary to the  
14 determination of the appropriate payment, including all other revenue received  
15 from other sources. The secretary shall adopt by rule standards and procedures  
16 necessary to implement this section.

17 § 2036. VERMONT HOSPITAL SECURITY TRUST FUND

18 (a) The Vermont hospital security trust fund is hereby established as a  
19 special fund in the state treasury for the purpose of financing health care  
20 services provided by hospitals to beneficiaries of the Vermont hospital security  
21 plan.

1       (b) Into the fund shall be deposited:

2           (1) transfers from the general fund, authorized by the general assembly;

3           (2) proceeds from grants, donations, contributions, and taxes and any

4       other sources of revenue as may be provided by statute or by rule;

5           (3) transfers of all federal receipts for health care purposes provided by

6       hospitals, including all Medicaid receipts and all Medicare receipts upon

7       federal approval; and

8           (4) revenue from the sources established to fund the Vermont hospital

9       security plan established under this subchapter.

10       (c) The fund shall be administered by the secretary pursuant to subchapter

11       5 of chapter 7 of Title 32, except that interest earned on the fund and any

12       remaining balance shall be retained in the fund. The secretary shall maintain

13       records indicating the amount of money in the fund at any time.

14       (d) All monies received by or generated to the fund shall be used only for

15       the administration and delivery of health care services provided by hospitals

16       covered through state health care assistance programs administered by the

17       agency, including the Vermont hospital security plan.

18       Sec. 2. 18 V.S.A. § 9437(1) is amended to read:

19           (1) the application is consistent with the health resource allocation plan

20       and, as applicable, the financial parameters set by the global hospital budget

21       established under section 2034 of Title 33;

1 Sec. 3. 18 V.S.A. § 9456(c) is amended to read:

2 (c) Individual hospital budgets established under this section shall:

3 (1) be consistent with the health resource allocation plan;

4 (2) take into consideration national, regional, or instate peer group  
5 norms, according to indicators, ratios, and statistics established by the  
6 commissioner;

7 (3) promote efficient and economic operation of the hospital;

8 (4) reflect budget performances for prior years; ~~and~~

9 (5) include a finding that the analysis provided in subdivision (b)(9) of  
10 this section is a reasonable methodology for reflecting a reduction in net  
11 revenues for non-Medicaid payers;

12 (6) be consistent with the global hospital budget established under  
13 section 2034 of Title 33.

14 Sec. 4. FUNDING MECHANISM

15 (a)(1) A Vermont hospital security fund special committee is created to  
16 recommend to the commission on health care reform the appropriate funding  
17 mechanisms for the Vermont hospital security plan.

18 (2) The committee shall consider at a minimum:

19 (A) how to fund the program in the event that a Medicaid waiver is  
20 not approved by the Centers of Medicare and Medicaid Services; and

21 (B) a variety of funding sources, including:

1           (i) an income tax;

2           (ii) a payroll tax;

3           (iii) premiums or cost-sharing measures;

4           (iv) a value-added tax;

5           (v) a sales tax; and

6           (vi) an annual hospital care fee or another consumption tax.

7           (b) The Vermont hospital security fund special committee shall consist of  
8           the chair of the joint fiscal committee, the chairs of the house and senate  
9           committees on appropriations, the chair of the house committee on ways and  
10           means, the chair of the senate committee on finance, the chair or co-chairs of  
11           the health access oversight committee, the co-chairs of the commission on  
12           health care reform, the secretary of the agency of human services, and the  
13           commissioner of banking, insurance, securities, and health care administration  
14           or their designees. The committee may meet for no more than six meetings or  
15           public hearings and shall have such powers as are needed to carry out the  
16           purposes of this section. Committee members who are not members of the  
17           general assembly or state employees shall be entitled to per diem compensation  
18           and expenses as provided in section 1010 of Title 32. Committee members  
19           who are members of the general assembly shall be entitled to compensation  
20           and reimbursement for expenses pursuant to section 406 of Title 2.

1       (c) The Vermont hospital security fund special committee shall issue a  
2       report with a recommendation on funding the Vermont hospital security plan to  
3       the commission on health care reform no later than November 15, 2010. The  
4       commission on health care reform shall issue its recommendations to the  
5       general assembly no later than January 1, 2011.

6       Sec. 5. FEDERAL WAIVERS

7       (a) The secretary of human services shall apply for a federal Medicare  
8       waiver no later than September 1, 2010, to allow the state to include Medicare  
9       funds for hospital services in the hospital security trust fund established under  
10       subchapter 6 of chapter 19 of Title 33 and to modify the payment standards or  
11       amounts in order to include Medicare funds in the global hospital budget  
12       established under section 2034 of Title 33.

13       (b) The secretary of human services shall apply for a federal Medicaid  
14       waiver no later than September 1, 2010, to allow the state to modify the  
15       payment standards or amounts in order to include Medicaid funds in the global  
16       hospital budget established under section 2034 of Title 33.

17       Sec. 6. 2 V.S.A. § 901(b) is amended to read:

18       (b) Members of the commission shall include four representatives  
19       appointed by the speaker of the house, four senators appointed by the  
20       committee on committees, and two ~~non-voting~~ members appointed by the  
21       governor.

1 Sec. 7. 2 V.S.A. § 903(b) is amended to read:

2 (b)(1) Administration without assumption of risk. No earlier than  
3 October 1, 2009, the commission on health care reform shall evaluate the  
4 Catamount Health market to determine whether it is a cost-effective method of  
5 providing health care coverage to uninsured Vermonters, taking into  
6 consideration the rates and forms approved by the department of banking,  
7 insurance, securities, and health care administration, the costs of administration  
8 and reserves, the amount of Catamount Health assistance to be provided to  
9 individuals, whether the Catamount Health assistance is sufficient to make  
10 Catamount Health affordable to those individuals, and the number of  
11 individuals for whom assistance is available given the appropriated amount.  
12 Prior to making its determination, the commission shall consider the  
13 recommendations of a health care and health insurance consultant selected  
14 jointly by the commission and the secretary of administration.

15 (2)(A) If the commission determines that the market is not  
16 cost-effective, the agency of administration shall issue a request for proposals  
17 for the administration only of Catamount Health as described in section 4080f  
18 of Title 8, except that the hospital services shall be covered under the Vermont  
19 hospital security plan established in subchapter 6 of chapter 19 of Title 33.

20 (B) A contract entered into under this subsection shall not include the  
21 assumption of risk. If Catamount Health is administered under this subsection,

1 the agency shall purchase a stop-loss policy for an aggregate claims amount for  
2 Catamount Health as a method of managing the state's financial risk. The  
3 agency shall determine the amount of aggregate stop-loss reinsurance and may  
4 purchase additional types of reinsurance if prudent and cost-effective.

5 (C) The agency may include in the contract the chronic care  
6 management program established under section 1903a of Title 33.

7 (3) If Catamount Health is offered as a self-insured product, the  
8 requirements of section 4080f of Title 8 and subchapter 3a of chapter 19 of  
9 Title 33 shall apply to the extent feasible. The individual contributions set in  
10 subchapter 3a of chapter 19 of Title 33 shall be the premium amounts charged  
11 to individuals.

12 Sec. 8. 8 V.S.A. chapter 107, subchapter 4A is added to read:

13 Subchapter 4A. Rate Transparency

14 § 4093. PURPOSE

15 The state of Vermont has a compelling interest in promoting cost  
16 containment in health care for Vermont residents and enabling them to identify  
17 the costs of and charges for health care services across providers.

18 § 4094. RATE TRANSPARENCY

19 (a) As used in this section:

20 (1) "Health care facility" means all persons or institutions, including  
21 mobile facilities, whether public or private, proprietary or nonprofit, which

1 offer diagnosis, treatment, inpatient, or ambulatory care to two or more  
2 unrelated persons, and the buildings in which those services are offered. The  
3 term shall not apply to any institution operated by religious groups relying  
4 solely on spiritual means through prayer for healing, but shall include:

5 (A) hospitals, including general hospitals, mental hospitals, chronic  
6 disease facilities, birthing centers, maternity hospitals and psychiatric facilities,  
7 including any hospital conducted, maintained, or operated by the state of  
8 Vermont, or its subdivisions, or a duly authorized agency thereof;

9 (B) nursing homes, health maintenance organizations, home health  
10 agencies, outpatient diagnostic or therapy programs, kidney disease treatment  
11 centers, mental health agencies or centers, diagnostic imaging facilities,  
12 independent diagnostic laboratories, cardiac catheterization laboratories,  
13 radiation therapy facilities, or any inpatient or ambulatory surgical, diagnostic,  
14 or treatment center.

15 (2) "Health care professional" means an individual, partnership,  
16 corporation, facility, or institution licensed or certified or authorized by law to  
17 provide professional health care services.

18 (3) "Health insurer" means any insurance company that provides health  
19 insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital  
20 and medical service corporations, and health maintenance organizations. The

1 term does not apply to coverage for specified disease or other limited benefit  
2 coverage.

3 (b) Health insurers doing business in Vermont shall file with the  
4 department of banking, insurance, securities, and health care administration  
5 annually, on or before September 1, the fee schedules they have negotiated  
6 with each health care facility and health care professional under contract with  
7 the insurer to provide services to Vermont residents.

8 (c) On or before October 1 of each year, the department of banking,  
9 insurance, securities, and health care administration shall update the fee  
10 schedules it receives pursuant to subsection (b) of this section and post the  
11 updated information on the department's website to enable consumers to  
12 compare the costs of health care services across providers.

13 Sec. 9. Sec. 50 of No. 160 of the Acts of the 1991 Adj. Sess. (1992) is  
14 amended to read:

15 Sec. 50. EFFECTIVE DATE

16 Secs. 46, 47, 48, and 49, amending chapter 215 of Title 12 to provide for  
17 mandatory arbitration in medical malpractice cases and admission of practice  
18 guidelines, shall take effect on ~~the effective date of a universal access health~~  
19 ~~care system enacted by the general assembly~~ July 1, 2010.

1       Sec. 10. 18 V.S.A. § 10b is added to read:

2       § 10b. HOSPITALIST LOAN REPAYMENT FUND

3           (a) There is hereby established a special fund to be known as the Vermont  
4       hospitalist loan repayment fund which shall be used for the purpose of  
5       ensuring a stable and adequate supply of physicians and advanced practice  
6       registered nurses who focus their practice on providing service to patients in  
7       Vermont's hospitals.

8           (b) The fund shall be established and held separate and apart from any  
9       other funds or moneys of the state and shall be used and administered  
10       exclusively for the purpose of this section. The money in the fund shall be  
11       invested in the same manner as permitted for investment of funds belonging to  
12       the state or held in the treasury. The fund shall consist of the following:

13           (1) Such sums as may be appropriated or transferred thereto from time  
14       to time by the general assembly, the state emergency board, or the joint fiscal  
15       committee during such times as the general assembly is not in session.

16           (2) Interest earned from the investment of fund balances.

17           (3) Any other money from any other source accepted for the benefit of  
18       the fund.

19           (c) The fund shall be administered by the department of health, which shall  
20       make funds available to the University of Vermont College of Medicine area  
21       health education centers (AHEC) program for loan repayment awards. The

1 commissioner may require certification of compliance with this section prior to  
2 the making of an award.

3 (d) AHEC shall administer awards in such a way as to comply with the  
4 requirements of Section 108(f) of the Internal Revenue Code.

5 (e) AHEC shall make loan repayment awards in exchange for service  
6 commitment by hospitalists and shall define the service obligation in a contract  
7 with the hospitalist. Payment awards shall be made directly to the hospitalist's  
8 educational loan creditor.

9 (f) Loan repayment awards shall only be available for a hospitalist who:

10 (1) is a Vermont resident;

11 (2) serves in a Vermont hospital;

12 (3) accepts patients with coverage under Medicaid, Medicare, or other  
13 state-funded health care benefit programs, if applicable; and

14 (4) has outstanding educational debt acquired in the pursuit of an  
15 undergraduate or graduate degree from an accredited college or university that  
16 equals or exceeds the amount of the loan repayment award.

17 (g) Additional eligibility and selection criteria will be developed annually  
18 by the commissioner in consultation with AHEC and may include local goals  
19 for improved service, community needs, or other awarding parameters.

20 (h) The commissioner may adopt regulations in order to implement the  
21 program established in this section.

1           (i) As used in this section:

2           (1) “Advanced practice registered nurse” shall have the same meaning  
3 as in subdivision 1572(4) of Title 26.

4           (2) “Hospital” means a place devoted primarily to the maintenance and  
5 operation of diagnostic and therapeutic facilities for in-patient medical or  
6 surgical care of individuals suffering from illness, disease, injury, or deformity  
7 or for obstetrics.

8           (3) “Hospitalist” means a physician or advanced practice registered  
9 nurse who treats solely hospitalized patients.

10           (4) “Physician” shall have the same meaning as in subdivision 1311(1)  
11 of Title 26.

12       Sec. 11. APPROPRIATION

13           In fiscal year 2012, the sum of \$500,000.00 is appropriated to the  
14 department of health from the general fund to be deposited in the Vermont  
15 hospitalist loan repayment fund pursuant to section 10b of Title 18.

16       Sec. 12. EFFECTIVE DATE

17           This act shall take effect from passage, except that the Vermont hospital  
18 security plan shall be implemented no later than January 1, 2012.