

1 H.82

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 global budget

7 Statement of purpose: This bill would provide access to and coverage for  
8 health services provided in hospitals. It would establish a global hospital  
9 budget for the state and an individual hospital budget for each hospital in the  
10 state and create a Vermont hospital security trust fund from which a negotiated  
11 payment would be made to each hospital for health services provided. The bill  
12 would require health insurers to disclose to the department of banking,  
13 insurance, securities, and health care administration the rates they negotiate  
14 with providers and would direct the department to post the information on its  
15 website. It would make medical malpractice claims subject to arbitration,  
16 establish a loan repayment program for primary care providers and for health  
17 professionals practicing exclusively in Vermont hospitals, and direct the  
18 secretary of human services to seek waivers and exemptions from federal law  
19 as necessary to implement the Vermont hospital security plan.

1 An act relating to a Vermont hospital security plan

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

3 Sec. 1. 33 V.S.A. chapter 19, subchapter 7 is added to read:

4 Subchapter 7. Vermont Hospital Security Plan

5 § 2051. PURPOSE

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

17 § 2052. DEFINITIONS

18 As used in this subchapter:

19 (1) “Agency” means the agency of human services.

20 (2) “Commissioner” means the commissioner of banking, insurance,  
21 securities, and health care administration.

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

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

7           (5) "Hospital" shall have the same meaning as in 18 V.S.A. § 1902 and  
8           may include hospitals located out of state.

9           (6) "Secretary" means the secretary of the agency of human services.

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

14          § 2053. VERMONT HOSPITAL SECURITY PLAN

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

19          (2) Vermonters eligible for Catamount Health or a federally funded  
20          health care program shall be eligible for coverage of any benefits provided by  
21          the Vermont hospital security plan that are not covered by Catamount Health

1 or the federally funded health care program. For purposes of this subdivision,  
2 “federally funded health care program” means Medicare, Medicaid, the  
3 Vermont health access plan, Dr. Dynasaur, VPharm, VermontRx, Catamount  
4 Health premium assistance, employer-sponsored insurance premium  
5 assistance, another Medicaid-waiver program, or any other program covering  
6 health benefits using federal funding.

7 (b) The Vermont hospital security plan shall:

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

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

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

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

1       (d) A beneficiary aggrieved by an adverse decision of the agency may  
2 appeal to the human services board as provided in 3 V.S.A. § 3090.

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

6       § 2054. GLOBAL HOSPITAL BUDGETS

7       (a) Annually, the commissioner of banking, insurance, securities, and  
8 health care administration, in collaboration with the secretary, shall develop a  
9 global hospital budget for the state and individual hospital budgets for each  
10 hospital located in Vermont. The commissioner shall consider the portions of  
11 the health resource allocation plan under 18 V.S.A. § 9405, the unified health  
12 care budget under section 18 V.S.A. § 9406 applicable to hospitals, the  
13 hospital budget review under 18 V.S.A. § 9456, the negotiated global hospital  
14 payments under section 2055 of this title, and all other revenue received by  
15 hospitals in the development of the global hospital budget. The global hospital  
16 budget for the state shall be reported annually to the general assembly on or  
17 before January 15 for the following fiscal year and shall not be effective until  
18 approved or modified by the general assembly.

19       (b) The global hospital budget for the state shall serve as a spending cap  
20 within which hospital costs may be controlled, resources directed, and quality  
21 and access assured. The global hospital budget shall limit the total annual

1 growth of hospital costs to the Consumer Price Index plus three percent. The  
2 commissioner shall ensure that the review of individual hospital budgets under  
3 subchapter 7 of chapter 221 of Title 18 or the certificate of need requests under  
4 subchapter 5 of chapter 221 of Title 18 are consistent with the global hospital  
5 budget.

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

8 § 2055. NEGOTIATED GLOBAL HOSPITAL PAYMENTS

9 The secretary shall negotiate with hospitals for a global hospital payment  
10 for health services provided by the Vermont hospital security plan. The  
11 payment amount shall be based upon the global hospital budget developed  
12 under section 2054 of this title and other information necessary to the  
13 determination of the appropriate payment, including all other revenue received  
14 from other sources. The secretary shall adopt by rule standards and procedures  
15 necessary to implement this section.

16 § 2056. VERMONT HOSPITAL SECURITY TRUST FUND

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

21 (b) Into the fund shall be deposited:

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

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

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

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

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

6 federal approval; and

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

8 security plan established under this subchapter.

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

10 5 of chapter 7 of Title 32, except that interest earned on the fund and any

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

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

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

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

15 covered through state health care assistance programs administered by the

16 agency, including the Vermont hospital security plan.

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

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

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

20 established under 33 V.S.A. § 2054;

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; and

12 (6) be consistent with the global hospital budget established under  
13 33 V.S.A. § 2054.

14 Sec. 4. FUNDING MECHANISM

15 (a)(1) A Vermont hospital security fund special committee is created to  
16 recommend to the general assembly the appropriate funding mechanisms for  
17 the Vermont hospital security plan.

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

19 (A) how to operate the program in the event that Vermont is unable  
20 to secure an exemption from the requirement to set up and operate a health  
21 benefit exchange pursuant to the Patient Protection and Affordable Care Act of

1 2010, Public Law 111-148, as amended by the Health Care and Education  
2 Reconciliation Act of 2010, Public Law 111-152;

3 (B) how to fund the program in the event that a Medicaid waiver is  
4 not approved by the Centers for Medicare and Medicaid Services; and

5 (C) a variety of funding sources, including:

6 (i) an income tax;

7 (ii) a payroll tax;

8 (iii) premiums or cost-sharing measures;

9 (iv) a value-added tax;

10 (v) a sales tax; and

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

12 (b) The Vermont hospital security fund special committee shall consist of  
13 the chair of the joint fiscal committee, the chairs of the house and senate  
14 committees on appropriations, the chair of the house committee on ways and  
15 means, the chair of the senate committee on finance, the chair or co-chairs of  
16 the health access oversight committee, the chair of the house committee on  
17 health care, the chair of the house committee on human services, the chair of  
18 the senate committee on health and welfare, the secretary of the agency of  
19 human services, and the commissioner of banking, insurance, securities, and  
20 health care administration or their designees. The committee may meet for no  
21 more than six meetings or public hearings and shall have such powers as are

1 needed to carry out the purposes of this section. Committee members who are  
2 not members of the general assembly or state employees shall be entitled to per  
3 diem compensation and expenses as provided in section 32 V.S.A. § 1010.  
4 Committee members who are members of the general assembly shall be  
5 entitled to compensation and reimbursement for expenses pursuant to section  
6 2 V.S.A. § 406.

7 (c) The Vermont hospital security fund special committee shall issue a  
8 report with a recommendation on funding the Vermont hospital security plan to  
9 the house committees on appropriations, on health care, on human services,  
10 and on ways and means and the senate committees on appropriations, on  
11 finance, and on health and welfare no later than January 15, 2012.

12 Sec. 5. FEDERAL WAIVERS

13 (a) The secretary of human services shall apply for a federal Medicare  
14 waiver no later than September 1, 2011 to allow the state to include Medicare  
15 funds for hospital services in the hospital security trust fund established under  
16 subchapter 7 of chapter 19 of Title 33 and to modify the payment standards or  
17 amounts in order to include Medicare funds in the global hospital budget  
18 established under 33 V.S.A. § 2054.

19 (b) The secretary of human services shall apply for a federal Medicaid  
20 waiver no later than September 1, 2011 to allow the state to modify the

1 payment standards or amounts in order to include Medicaid funds in the global  
2 hospital budget established under 33 V.S.A. § 2054.

3 Sec. 6. FEDERAL EXEMPTION

4 (a) The secretary of human services shall seek an exemption from the  
5 requirement to set up and operate a health benefit exchange pursuant to the  
6 Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as  
7 amended by the Health Care and Education Reconciliation Act of 2010, Public  
8 Law 111-152.

9 (b) If by December 31, 2011, the secretary of human services has not been  
10 successful in obtaining an exemption from the exchange requirement, the  
11 secretary shall seek a limited exemption from such requirement to enable  
12 Vermont to:

13 (1) exclude hospital services from exchange plans; and

14 (2) receive federal funds to deposit in the Vermont hospital security trust  
15 fund in an amount sufficient to pay the estimated cost of providing hospital  
16 services for individuals eligible for federal subsidies under the exchange.

17 (c) If the secretary of human services is unable to obtain an exemption  
18 from the exchange requirement, he or she shall seek a waiver from the  
19 exchange requirement to take effect on the first day that such a waiver is  
20 available from the U.S. Department of Health and Human Services.

1 Sec. 7. 8 V.S.A. chapter 107, subchapter 4A is added to read:

2 Subchapter 4A. Rate Transparency

3 § 4093. PURPOSE

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

7 § 4094. RATE TRANSPARENCY

8 (a) As used in this section:

9 (1) "Health care facility" means all persons or institutions, including  
10 mobile facilities, whether public or private, proprietary or nonprofit, which  
11 offer diagnosis, treatment, inpatient, or ambulatory care to two or more  
12 unrelated persons, and the buildings in which those services are offered. The  
13 term shall not apply to any institution operated by religious groups relying  
14 solely on spiritual means through prayer for healing, but shall include:

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

19 (B) nursing homes, health maintenance organizations, home health  
20 agencies, outpatient diagnostic or therapy programs, kidney disease treatment  
21 centers, mental health agencies or centers, diagnostic imaging facilities,

1 independent diagnostic laboratories, cardiac catheterization laboratories,  
2 radiation therapy facilities, or any inpatient or ambulatory surgical, diagnostic,  
3 or treatment center.

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

7 (3) "Health insurer" means any insurance company that provides health  
8 insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital  
9 and medical service corporations, and health maintenance organizations. The  
10 term does not apply to coverage for specified disease or other limited benefit  
11 coverage.

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

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

1 Sec. 8. Sec. 50 of No. 160 of the Acts of the 1991 Adj. Sess. (1992) is  
2 amended to read:

3 Sec. 50. EFFECTIVE DATE

4 Secs. 46, 47, 48, and 49, amending chapter 215 of Title 12 to provide for  
5 mandatory arbitration in medical malpractice cases and admission of practice  
6 guidelines, shall take effect on ~~the effective date of a universal access health~~  
7 ~~care system enacted by the general assembly~~ July 1, 2011.

8 Sec. 9. 18 V.S.A. § 10b is added to read:

9 § 10b. PRIMARY CARE PROVIDER AND HOSPITALIST LOAN

10 REPAYMENT FUND

11 (a) There is hereby established a special fund to be known as the Vermont  
12 primary care provider and hospitalist loan repayment fund which shall be used  
13 for the purpose of ensuring a stable and adequate supply of physicians and  
14 advanced practice registered nurses who focus their practice on providing  
15 primary care services and attending to patients in Vermont's hospitals.

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

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

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

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

7           (c) The fund shall be administered by the department of health, which shall  
8 make funds available to the University of Vermont College of Medicine area  
9 health education centers (AHEC) program for loan repayment awards. The  
10 commissioner may require certification of compliance with this section prior to  
11 the making of an award.

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

14           (e) AHEC shall make loan repayment awards in exchange for a service  
15 commitment by primary care providers and hospitalists and shall define the  
16 service obligation in a contract with the individual recipient. Payment awards  
17 shall be made directly to the provider's or hospitalist's educational loan  
18 creditor.

19           (f) Loan repayment awards shall only be available for a primary care  
20 provider or hospitalist who:

21           (1) is a Vermont resident;

1           (2) works as a primary care provider in a Vermont-based practice or  
2 serves in a Vermont hospital;

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

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

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

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

13           (i) As used in this section:

14           (1) “Advanced practice registered nurse” shall have the same meaning  
15 as in 26 V.S.A. § 1572(4).

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

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

1           (4) "Physician" shall have the same meaning as in 26 V.S.A. § 1311(1).

2           (5) "Primary care provider" means a physician or advanced practice  
3 registered nurse specifically trained for and skilled in first-contact and  
4 continuing care for individuals with signs, symptoms, or health concerns, not  
5 limited by problem origin, organ system, or diagnosis.

6       Sec. 10 APPROPRIATION

7           In fiscal year 2013, the sum of \$500,000.00 is appropriated to the  
8 department of health from the general fund to be deposited in the Vermont  
9 hospitalist loan repayment fund pursuant to 18 V.S.A. § 10b.

10       Sec. 11. EFFECTIVE DATE

11           This act shall take effect upon passage, except that the Vermont hospital  
12 security plan shall be implemented no later than January 1, 2013, provided that  
13 if the secretary of human services is unable to secure an exemption from the  
14 exchange requirement pursuant to Sec. 6(a) of this act by December 31, 2011,  
15 the Vermont hospital security plan shall be implemented no later than six  
16 months following the first to occur of receipt of an exemption pursuant to  
17 Sec. 6(a) or (b) of this act or the effective date of an exchange waiver from the  
18 U.S. Department of Health and Human Services pursuant to Sec. 6(c) of this  
19 act.