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H.147

Introduced by Representatives Poirier of Barre City, Browning of Arlington,
Buxton of Tunbridge, Dakin of Chester, Davis of Washington,
McCormack of Burlington, Mitchell of Fairfax, Pearson of
Burlington, Spengler of Colchester, Till of Jericho, Wizowaty
of Burlington, and Woodward of Johnson

Referred to Committee on

Date:

Subject: Health; health insurance; consumer protection

Statement of purpose of bill as introduced: This bill proposes to create an
Office of Health Care Consumer Protection to represent the interests of the
public in matters relating to health care, including health insurers, health
insurance plans, public health benefit programs, and the activities of the Green
Mountain Care Board.

An act relating to the Office of Health Care Consumer Protection

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

Sec. 1. PURPOSE

The purpose of this act is to create a comprehensive Office of Health Care
Consumer Protection to represent the interests of the public in matters relating

1 to health care, including health insurers, health insurance plans, public health
2 benefit programs, and the activities of the Green Mountain Care Board.

3 Sec. 2. 18 V.S.A. chapter 229 is added to read:

4 CHAPTER 229. CONSUMER PROTECTION

5 § 9601. DEFINITIONS

6 As used in this chapter:

7 (1) “Green Mountain Care Board” or “Board” means the Board
8 established in chapter 220 of this title.

9 (2) “Health insurance plan” means a policy, service contract, or other
10 health benefit plan offered or issued by a health insurer and includes
11 beneficiaries covered by the Medicaid program unless they are otherwise
12 provided with similar services.

13 (3) “Health insurer” shall have the same meaning as in section 9402 of
14 this title.

15 § 9602. OFFICE OF HEALTH CARE CONSUMER PROTECTION;

16 COMPOSITION

17 (a) The Office of Health Care Reform in the Agency of Administration
18 shall establish the Office of Health Care Consumer Protection by contract with
19 any nonprofit organization.

20 (b) The Office shall be administered by the Director of Health Care
21 Consumer Protection, who shall be an individual with expertise and experience

1 in the fields of health care and advocacy. The Director may employ legal
2 counsel, administrative staff, and other employees and contractors as needed to
3 carry out the duties of the Office.

4 § 9603. DUTIES AND AUTHORITY

5 (a) The Office of Health Care Consumer Protection shall:

6 (1) Assist health insurance consumers with health insurance plan
7 selection by providing information, referrals, and assistance to individuals
8 about means of obtaining health insurance coverage and services. The Office
9 shall accept referrals from the Vermont Health Benefit Exchange and
10 Exchange navigators created pursuant to 33 V.S.A. chapter 18, subchapter 1, to
11 assist consumers experiencing problems related to the Exchange.

12 (2) Assist health insurance consumers to understand their rights and
13 responsibilities under health insurance plans.

14 (3) Provide information to the public, agencies, members of the General
15 Assembly, and others regarding problems and concerns of health insurance
16 consumers as well as recommendations for resolving those problems and
17 concerns.

18 (4) Identify, investigate, and resolve complaints on behalf of individual
19 health insurance consumers and assist those consumers with filing and pursuit
20 of complaints and appeals.

1 (5) Provide information to individuals and employers regarding their
2 obligations and responsibilities under the Patient Protection and Affordable
3 Care Act (Public Law 111-148).

4 (6) Analyze and monitor the development and implementation of
5 federal, state, and local laws, rules, and policies relating to patients and health
6 insurance consumers.

7 (7) Facilitate public comment on laws, rules, and policies, including
8 policies and actions of health insurers.

9 (8) Represent the interests of the people of the state in all cases requiring
10 a hearing before the Green Mountain Care Board established in chapter 220 of
11 this title.

12 (9) Suggest policies, procedures, or rules to the Green Mountain Care
13 Board in order to protect patients' and consumers' interests.

14 (10) Promote the development of citizen and consumer organizations.

15 (11) Ensure that patients and health insurance consumers have timely
16 access to the services provided by the Office.

17 (12) Submit to the General Assembly and the Governor on or before
18 January 1 of each year a report on the activities, performance, and fiscal
19 accounts of the Office during the preceding calendar year.

1 (b) The Office of Health Care Consumer Protection may:

2 (1) Bring proceedings on its own motion before the Green Mountain
3 Care Board with respect to any matter within the Board's jurisdiction.

4 (2) Review the health insurance records of a consumer who has
5 provided written consent. Based on the written consent of the consumer or his
6 or her guardian or legal representative, a health insurer shall provide the Office
7 with access to records relating to that consumer.

8 (3) Pursue administrative, judicial, and other remedies on behalf of any
9 individual health insurance consumer or group of consumers.

10 (4) Adopt policies and procedures necessary to carry out the provisions
11 of this chapter.

12 (5) Take any other action necessary to fulfill the purposes of this
13 chapter.

14 (c) The Office of Health Care Consumer Protection shall be able to speak
15 on behalf of the interests of health care and health insurance consumers and to
16 carry out all duties prescribed in this chapter without being subject to any
17 disciplinary or retaliatory action; provided, however, that nothing in this
18 subsection shall limit the authority of the Director of Health Care Reform to
19 enforce the terms of the contract.

1 § 9604. DUTIES OF STATE AGENCIES

2 All state agencies shall comply with reasonable requests from the Office of
3 Health Care Consumer Protection for information and assistance. The Agency
4 of Administration may adopt rules necessary to ensure the cooperation of state
5 agencies under this section.

6 § 9605. CONFIDENTIALITY

7 In the absence of written consent by a complainant or an individual using
8 the services of the Office or by his or her guardian or legal representative or
9 the absence of a court order, the Office of Health Care Consumer Protection,
10 its employees, and its contractors shall not disclose the identity of the
11 complainant or individual.

12 § 9606. CONFLICTS OF INTEREST

13 The Office of Health Care Consumer Protection, its employees, and its
14 contractors shall not have any conflict of interest relating to the performance of
15 their responsibilities under this chapter. For the purposes of this chapter, a
16 conflict of interest exists whenever the Office of Health Care Consumer
17 Protection, its employees, or its contractors or a person affiliated with the
18 Office, its employees, or its contractors:

19 (1) has a direct involvement in the licensing, certification, or
20 accreditation of a health care facility, health insurer, or health care provider;

1 (2) has a direct ownership interest or investment interest in a health care
2 facility, health insurer, or health care provider;

3 (3) is employed by or participating in the management of a health care
4 facility, health insurer, or health care provider; or

5 (4) receives or has the right to receive, directly or indirectly,
6 remuneration under a compensation arrangement with a health care facility,
7 health insurer, or health care provider.

8 Sec. 3. 18 V.S.A. § 9374(f) is amended to read:

9 (f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall
10 seek the advice of the state health care ombudsman established in 8 V.S.A.
11 § 4089w from the Office of Health Care Consumer Protection. The state
12 ~~health care ombudsman~~ Office shall advise the ~~board~~ Board regarding the
13 policies, procedures, and rules established pursuant to this chapter. The
14 ~~ombudsman~~ Office shall represent the interests of Vermont patients and
15 Vermont consumers of health insurance and may suggest policies, procedures,
16 or rules to the ~~board~~ Board in order to protect patients' and consumers'
17 interests.

18 Sec. 4. 18 V.S.A. § 9377(e) is amended to read:

19 (e) The ~~board~~ Board or designee shall convene a broad-based group of
20 stakeholders, including health care professionals who provide health services,
21 health insurers, professional organizations, community and nonprofit groups,

1 consumers, businesses, school districts, the ~~state health care ombudsman~~
2 Office of Health Care Consumer Protection, and state and local governments,
3 to advise the ~~board~~ Board in developing and implementing the pilot projects
4 and to advise the Green Mountain Care ~~board~~ Board in setting overall policy
5 goals.

6 Sec. 5. 18 V.S.A. § 9410(a)(2) is amended to read:

7 (2)(A) The program authorized by this section shall include a consumer
8 health care price and quality information system designed to make available to
9 consumers transparent health care price information, quality information, and
10 such other information as the ~~commissioner~~ Commissioner determines is
11 necessary to empower individuals, including uninsured individuals, to make
12 economically sound and medically appropriate decisions.

13 (B) The ~~commissioner~~ Commissioner shall convene a working group
14 composed of the ~~commissioner of mental health, the commissioner of Vermont~~
15 ~~health access~~ Commissioner of Mental Health, the Commissioner of Vermont
16 Health Access, health care consumers, the ~~office of the health care ombudsman~~
17 Office of Health Care Consumer Protection, employers and other payers,
18 health care providers and facilities, the Vermont ~~program for quality in health~~
19 ~~care~~ Program for Quality in Health Care, health insurers, and any other
20 individual or group appointed by the ~~commissioner~~ Commissioner to advise

1 the ~~commissioner~~ Commissioner on the development and implementation of
2 the consumer health care price and quality information system.

3 * * *

4 Sec. 6. 18 V.S.A. § 9440(c) is amended to read:

5 (c) The application process shall be as follows:

6 * * *

7 (9) The ~~health care ombudsman's office~~ Office of Health Care
8 Consumer Protection established under ~~8 V.S.A. chapter 107, subchapter 1A~~
9 chapter 229 of this title or, in the case of nursing homes, the ~~long term care~~
10 ~~ombudsman's office~~ Long-Term Care Ombudsman's Office established under
11 33 V.S.A. § 7502, is authorized but not required to participate in any
12 administrative or judicial review of an application under this subchapter and
13 shall be considered an interested party in such proceedings upon filing a notice
14 of intervention with the ~~board~~ Board.

15 Sec. 7. 18 V.S.A. § 9445(b) is amended to read:

16 (b) In addition to all other sanctions, if any person offers or develops any
17 new health care project without first having been issued a certificate of need or
18 certificate of exemption ~~therefore for the project~~, or violates any other
19 provision of this subchapter or any lawful rule ~~or regulation promulgated~~
20 ~~thereunder~~ adopted pursuant to this subchapter, the ~~board~~ Board, the
21 ~~commissioner~~ Commissioner, the ~~state health care ombudsman~~ Office of

1 Health Care Consumer Protection, the ~~state long-term care ombudsman~~ State
2 Long-Term Care Ombudsman, and health care providers and consumers
3 located in the state shall have standing to maintain a civil action in the superior
4 court of the county ~~wherein~~ in which such alleged violation has occurred, or
5 ~~wherein~~ in which such person may be found, to enjoin, restrain, or prevent
6 such violation. Upon written request by the ~~board~~ Board, it shall be the duty of
7 the ~~attorney general of the state~~ Vermont Attorney General to furnish
8 appropriate legal services and to prosecute an action for injunctive relief to an
9 appropriate conclusion, which shall not be reimbursed under subdivision (a)(2)
10 of this ~~subsection~~ section.

11 Sec. 8. 33 V.S.A. § 1805 is amended to read:

12 § 1805. DUTIES AND RESPONSIBILITIES

13 The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have
14 the following duties and responsibilities consistent with the Affordable
15 Care Act:

16 * * *

17 (16) Referring consumers to the ~~office of health care ombudsman~~ Office
18 of Health Care Consumer Protection for assistance with grievances, appeals,
19 and other issues involving the Vermont ~~health benefit exchange~~ Health Benefit
20 Exchange.

21 * * *

