

1 S.79

2 Introduced by Senator Fox

3 Referred to Committee on

4 Date:

5 Subject: Health; health insurance; consumer protection

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

11 An act relating to the Office of Health Care Consumer Protection

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

13 Sec. 1. PURPOSE

14 The purpose of this act is to create a comprehensive Office of Health Care  
15 Consumer Protection to represent the interests of the public in matters relating  
16 to health care, including health insurers, health insurance plans, public health  
17 benefit programs, and the activities of the Green Mountain Care Board.

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

2 CHAPTER 229. CONSUMER PROTECTION

3 § 9601. DEFINITIONS

4 As used in this chapter:

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

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

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

13 § 9602. OFFICE OF HEALTH CARE CONSUMER PROTECTION;

14 COMPOSITION

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

18 (b) The Office shall be administered by the Director of Health Care  
19 Consumer Protection, who shall be an individual with expertise and experience  
20 in the fields of health care and advocacy. The Director may employ legal

1 counsel, administrative staff, and other employees and contractors as needed to  
2 carry out the duties of the Office.

3 § 9603. DUTIES AND AUTHORITY

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

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

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

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

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

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

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

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

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

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

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

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

19          § 9604. DUTIES OF STATE AGENCIES

20          All state agencies shall comply with reasonable requests from the Office of  
21          Health Care Consumer Protection for information and assistance. The Agency

1 of Administration may adopt rules necessary to ensure the cooperation of state  
2 agencies under this section.

3 § 9605. CONFIDENTIALITY

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

9 § 9606. CONFLICTS OF INTEREST

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

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

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

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

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

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

5           (f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall  
6           seek ~~the advice of the state health care ombudsman established in 8 V.S.A.~~  
7           ~~§ 4089w~~ from the Office of Health Care Consumer Protection. The ~~state~~  
8           ~~health care ombudsman~~ Office shall advise the ~~board~~ Board regarding the  
9           policies, procedures, and rules established pursuant to this chapter. The  
10          ~~ombudsman~~ Office shall represent the interests of Vermont patients and  
11          Vermont consumers of health insurance and may suggest policies, procedures,  
12          or rules to the ~~board~~ Board in order to protect patients' and consumers'  
13          interests.

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

15          (e) The ~~board~~ Board or designee shall convene a broad-based group of  
16          stakeholders, including health care professionals who provide health services,  
17          health insurers, professional organizations, community and nonprofit groups,  
18          consumers, businesses, school districts, the ~~state health care ombudsman~~  
19          Office of Health Care Consumer Protection, and state and local governments,  
20          to advise the ~~board~~ Board in developing and implementing the pilot projects

1 and to advise the Green Mountain Care ~~board~~ Board in setting overall policy  
2 goals.

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

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

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

20 \* \* \*

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

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

3 \* \* \*

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

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

13 (b) In addition to all other sanctions, if any person offers or develops any  
14 new health care project without first having been issued a certificate of need or  
15 certificate of exemption ~~therefore for the project~~, or violates any other  
16 provision of this subchapter or any lawful rule ~~or regulation promulgated~~  
17 ~~thereunder~~ adopted pursuant to this subchapter, the ~~board~~ Board, the  
18 ~~commissioner~~ Commissioner, the ~~state health care ombudsman~~ Office of  
19 Health Care Consumer Protection, the ~~state long term care ombudsman~~ State  
20 Long-Term Care Ombudsman, and health care providers and consumers  
21 located in the state shall have standing to maintain a civil action in the superior

1 court of the county ~~wherein~~ in which such alleged violation has occurred, or  
2 ~~wherein~~ in which such person may be found, to enjoin, restrain, or prevent  
3 such violation. Upon written request by the ~~board~~ Board, it shall be the duty of  
4 the ~~attorney general of the state~~ Vermont Attorney General to furnish  
5 appropriate legal services and to prosecute an action for injunctive relief to an  
6 appropriate conclusion, which shall not be reimbursed under subdivision (a)(2)  
7 of this ~~subsection~~ section.

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

9 § 1805. DUTIES AND RESPONSIBILITIES

10 The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have  
11 the following duties and responsibilities consistent with the Affordable  
12 Care Act:

13 \* \* \*

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

18 \* \* \*

19 Sec. 9. 33 V.S.A. § 1807(b) is amended to read:

20 (b) Navigators shall have the following duties:

21 \* \* \*

