

1 H.572
2 Introduced by Representatives Heath of Westford and Wizowaty of Burlington
3 Referred to Committee on
4 Date:
5 Subject: Health; health insurance; HIPAA; postdivorce coverage
6 Statement of purpose: This bill proposes to expand health-related privacy
7 protections and health insurance coverage to parties to a final divorce,
8 dissolution, or legal separation decree.

9 An act relating to postdivorce or dissolution health insurance coverage and
10 privacy protections

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

12 Sec. 1. 8 V.S.A. § 4090h is added to read:

13 § 4090h. CONTINUATION AND CONVERSION; POSTDIVORCE OR
14 DISSOLUTION

15 (a) Any group health insurance policy covering a resident of Vermont shall
16 provide the following:

17 (1) Unless the decree expressly provides otherwise, upon final decree of
18 divorce, dissolution, or legal separation where one spouse is a member of a
19 group health insurance policy and the former spouse was a family member or
20 eligible dependent under that policy prior to the date of decree, the former

1 spouse shall be eligible for continued group benefits as a family member or
2 eligible dependent under the policy without additional premium or proof of
3 insurability, as if the decree had not been issued.

4 (2) The former spouse shall be eligible for continued coverage through
5 the member's participation in a group health insurance policy while such
6 policy remains in force and where it is replaced by another group policy
7 covering the member pursuant to the provisions of this subchapter until the
8 earliest of the following events occurs:

9 (A) The remarriage or civil union of the former spouse;

10 (B) The remarriage or civil union of the member;

11 (C) The enrollment of the member's domestic partner in the
12 member's policy;

13 (D) Three years lapse from the date of final decree of divorce,
14 dissolution, or legal separation;

15 (E) The death of the member; or

16 (F) An earlier date as provided by the final decree of divorce,
17 dissolution, or legal separation.

18 (3)(A) Upon the occurrence of the earliest of the events set forth in
19 subdivisions (2)(B) through (2)(F) of this subsection, the former spouse shall
20 have the right to obtain a converted policy from the group health insurer
21 pursuant to section 4090e of this title. An insurer may charge a premium for

1 the former spouse's converted policy. The former spouse shall request
2 enrollment, in writing, within 30 days following the occurrence of the earliest
3 of these events.

4 (B) In the event of the former spouse's remarriage or civil union, the
5 former spouse shall no longer be eligible for continued coverage pursuant to
6 subdivision (2) of this subsection, nor qualify for a converted policy from the
7 group health insurer pursuant to subdivision (3)(A) of this subsection. The
8 former spouse shall notify the insurer, in writing, within 30 days after the date
9 of remarriage or civil union. The termination of the former spouse's eligibility
10 under this section shall be the date of remarriage or civil union.

11 (b) Where the former spouse is entitled to continuation of coverage or a
12 converted policy under subdivisions (a)(2) or (a)(3)(A) of this section
13 respectively, the premium payment shall be paid by the member, the former
14 spouse, or both as they shall agree or as they shall be ordered by the court.

15 (c)(1) The department of banking, insurance, securities, and health care
16 administration shall produce a continued coverage and converted policy
17 eligibility form that shall be made available on its website and that shall
18 require information that evidences a former spouse's eligibility for continued
19 coverage or a converted policy under this section.

20 (2) Once annually following the issuance of the final decree of divorce,
21 dissolution, or legal separation, the group health insurer may request a

1 notarized continued coverage and converted policy eligibility form describing
2 the former spouse's eligibility for continued coverage or a converted policy
3 under this section by mailing the form to the former spouse. Upon receipt, the
4 former spouse shall have 60 days to notarize and return the continued coverage
5 and converted policy eligibility form to the group health insurer.

6 (d)(1) If the group health insurance policy in effect as of the date of the
7 decree is replaced by another group policy issued by a different insurer and
8 covering the member, that insurer may request a notarized continued coverage
9 and converted policy eligibility form evidencing the former spouse's eligibility
10 for continued coverage or a converted policy under this section within 30 days
11 of the effective date of the member's coverage under the replacement policy by
12 mailing the form to the former spouse. Upon receipt, the former spouse shall
13 have 60 days to notarize and return the continued coverage and converted
14 policy eligibility form to the group health insurer.

15 (2) The effective date of the former spouse's coverage under the
16 member's replacement policy shall be the same as the effective date of the
17 member's coverage under that policy.

18 (e) As used in this chapter:

19 (1) "Former spouse" means a spouse who was covered as a family
20 member or eligible dependent under the member spouse's group health

1 insurance policy prior to the date of final decree of divorce, dissolution, or
2 legal separation.

3 (2) "Member spouse" means a spouse who is a member of a group
4 health insurance policy under which the former spouse was covered.

5 Sec. 2. 8 V.S.A. § 4090i is added to read:

6 § 4090i. PRIVACY PROTECTIONS; POSTDIVORCE OR DISSOLUTION

7 HEALTH INSURANCE COVERAGE

8 (a) Upon final decree of divorce, dissolution, or legal separation where one
9 spouse is a member of a group health insurance policy and the former spouse is
10 a family member or eligible dependent under said policy prior to the date of
11 decree, the former spouse shall notify the group health insurer, in writing, of
12 any address other than the member's address to which notices and
13 correspondence pertaining to the former spouse's coverage should be mailed,
14 including notice of cancellation and any right to reinstate coverage, and the
15 insurer shall use such address until it receives written notice of a change from
16 the former spouse.

17 (b) The former spouse may request that the insurer restrict the disclosure of
18 the former spouse's protected health information to the member. Upon
19 receiving written notice from the former spouse, the insurer shall restrict such
20 disclosures to the member, except where disclosure is necessary to procure
21 emergency treatment for the former spouse. Prohibition of such disclosures

1 shall remain in effect until such time as the former spouse submits written
2 notice to the insurer repealing or modifying the previously requested
3 prohibition on disclosure of his or her protected health information to the
4 member.

5 (c) As used in this section, “protected health information” shall mean any
6 individually identifiable health information that is maintained or transmitted in
7 any form or medium.

8 Sec. 3. 8 V.S.A. § 4090c is amended to read:

9 § 4090c. TERMINATION OF COVERAGE

10 Continuation of insurance under the group policy shall terminate upon the
11 occurrence of any of the following:

12 (1) except as otherwise provided in section 4090h of this title, the date
13 18 months after the date that insurance under the policy would have terminated
14 due to a qualifying event, as defined in subsection 4090a(b) of this title;

15 * * *

16 Sec. 4. 8 V.S.A. § 4090d is amended to read:

17 § 4090d. RIGHT OF CONVERSION

18 All group health insurance policies, issued by an insurance company, a
19 nonprofit hospital or medical service corporation, a self-insured group plan and
20 prepaid health insurance plans delivered or issued for delivery in this state
21 which insure employees or members for hospital and medical insurance on an

1 expense incurred, service or prepaid basis, other than for specific diseases or
2 for accidental injuries only, shall provide that any person whose insurance
3 under the group policy would terminate because of the death ~~of the~~
4 employee or member, loss of employment of the employee or member, or
5 decree of divorce, dissolution, or legal separation shall be entitled to have a
6 converted policy issued to him or her by the insurer under whose group policy
7 he or she was insured, without evidence of insurability.

8 Sec. 5. 8 V.S.A. § 4090e(a) is amended to read:

9 (a) Written application and the first premium payment for the converted
10 policy shall be made to the insurer not later than 30 days prior to the date
11 termination of the continuation of the group policy under section 4090a of this
12 title would have occurred due to the death ~~of the~~ employee or member,
13 termination of the employee or member, or decree of divorce, dissolution, or
14 legal separation. Its effective date shall be the day following the termination of
15 the continued insurance under the group policy under ~~section~~ subdivision
16 4090c(1) of this title.

17 Sec. 6. 8 V.S.A. § 4090f(a) is amended to read:

18 (a) The insurer shall not be required to issue a converted policy if:

19 (1) termination under the group policy occurred because the person:

20 (A) was not entitled to continuation of group coverage under section
21 4090a of this title; ~~or~~

