

*Green*  
*Mountain Care*  
“Cross Border”  
Considerations



PREPARED FOR THE SENATE FINANCE COMMITTEE

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1/16/14

# Cross-Border Considerations:



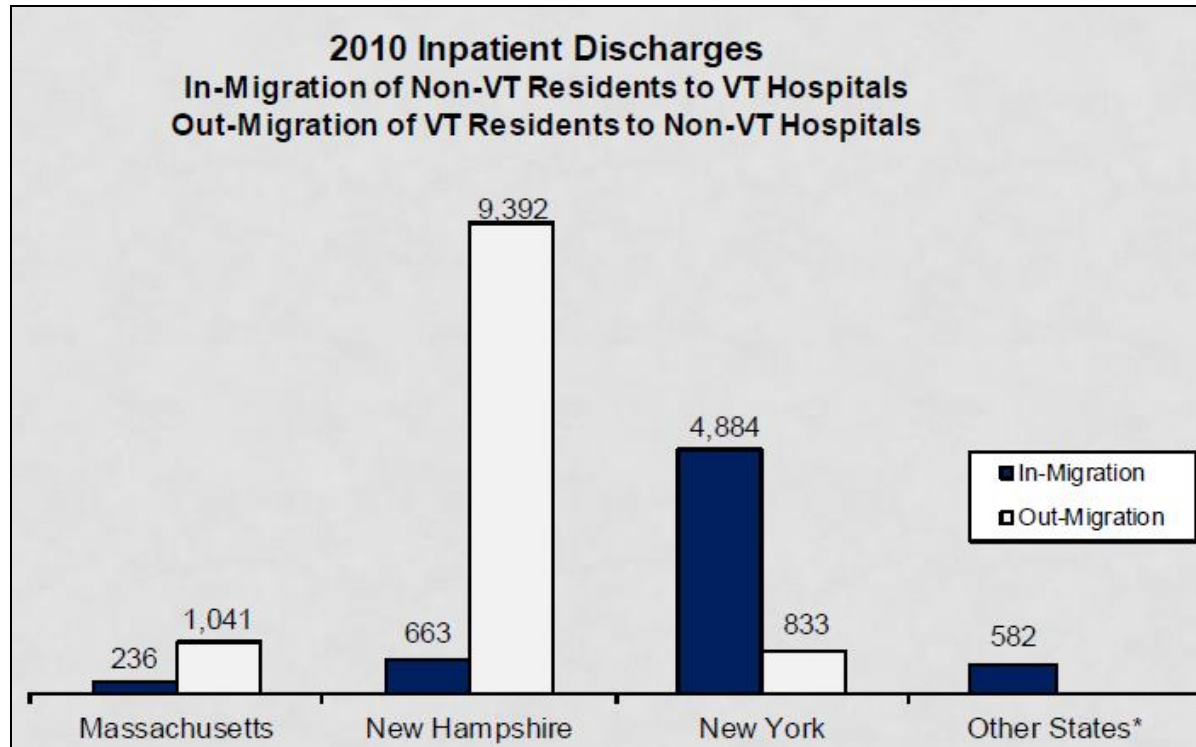
- Where people go for health care services
- Employment & Health Insurance Coverage
  - Vermont residents working for out-of-state companies
  - Vermont companies with out-of-state employees
- Tax Issues

**Where people go for health care**

## Where people go for health care

- ***Fletcher Allen (VT) and Dartmouth-Hitchcock (NH) account for a major part of in/out migration***
  - Approx. 20% of Fletcher Allen's business come from New York residents
  - Approx. 40% of Dartmouth-Hitchcock's business come from Vermonters
- Porter Hospital - In-migration from NY for newborn delivery
- Southwestern Hospital - shares a market with Albany, NY
- St. Johnsbury Hospital - market-area includes New Hampshire
- Other VT hospitals also serve out-of-state residents for emergencies (e.g. as skiing injuries, etc.)

# Where people go for health care



Source: Green Mountain Care Board, Expenditure Analysis. 2010 VT Uniform Hospital Discharge Dataset

- *In 2010, 22% of VT resident in-patient discharges were at out of state hospitals, the majority of which were at Dartmouth Hitchcock.*
- *Note: Spending by Canadians at Vermont hospitals are estimated to be less than 1% of total hospital expenditures.*

# Where people go for health care

## 2010 Vermont Inpatient Migration

	Inpatient Discharges	Total Charges	Average Charges
<b>Total Out-Migration (VT residents in Out-of-state hospitals)</b>	11,266	\$418,775,118	\$37,172
<b>Total In-Migration (Out-of-state residents in Vermont Hospitals)</b>	6,365	179,218,226	28,157
<b>Net Out-Migration</b>	4,901	239,556,892	48,879

- Typically, services cost more for Vermonters when they go out of state for hospital services.
- Average charge for VT residents in VT hospitals was \$19,830, compared to \$37,172 when they went out-of-state for hospital inpatient services.

# Where people go for health care

## Considerations

- Hospitals will have to maintain some billing / administrative functions. What are the impact on potential administration savings?
- What reimbursement rate will GMC pay out-of-state providers?
- Will out-of-state providers accept GMC as a payer?
- What will be the impact on existing cross-border provider relationships and reform efforts?

# **Employment & Health Insurance Coverage**

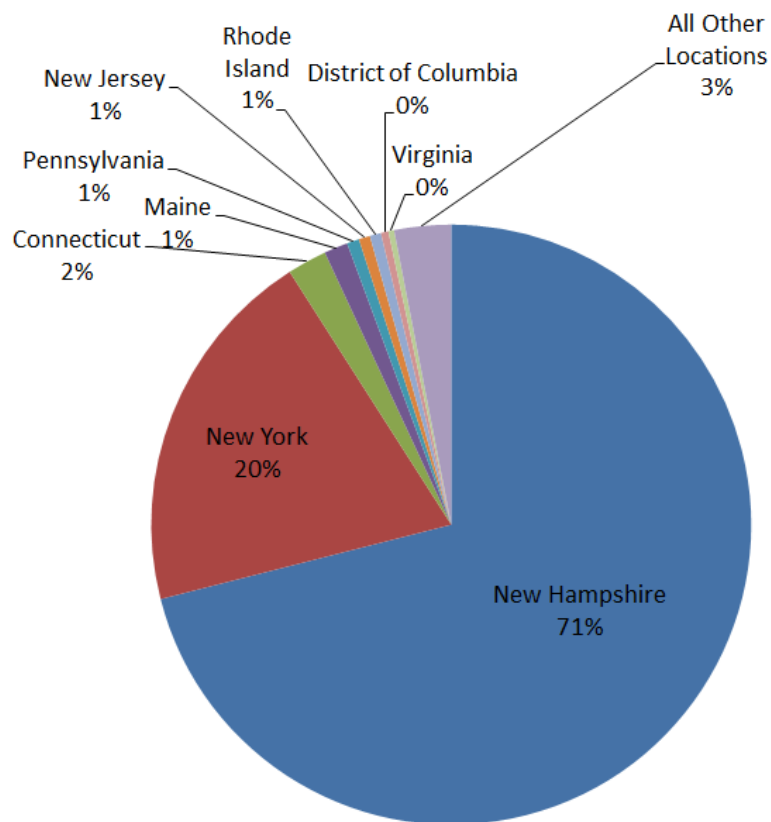


# Employment & Health Insurance Coverage

## ***Vermont Residents employed outside Vermont***

- 9% of VT residents are employed out-of-state
- 71% of this group work in New Hampshire

### Where do they work? (2011 Data)



New Hampshire	18,325
New York	5,145
Connecticut	549
Maine	330
Pennsylvania	172
New Jersey	156
Rhode Island	156
District of Columbia	105
Virginia	79
All Other Locations	789
<b>TOTAL</b>	<b>25,806</b>

Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics (Beginning of Quarter Employment, 2nd Quarter of 2002-2011).

# Employment & Health Insurance Coverage

## ***Vermont residents employed outside Vermont***

### Considerations

- Approx. 50-60,000 VTers have insurance through “national accounts” (e.g. IBM).
- How much do they and their employers pay for their premiums?
- If they have other health insurance, should GMC be primary or secondary insurance?
- What considerations, if any, should there be for these individuals under different revenue mechanisms?

### Data Needs

- The Administration via Tax & DOL are working to combine data to create more useful analysis capacity.

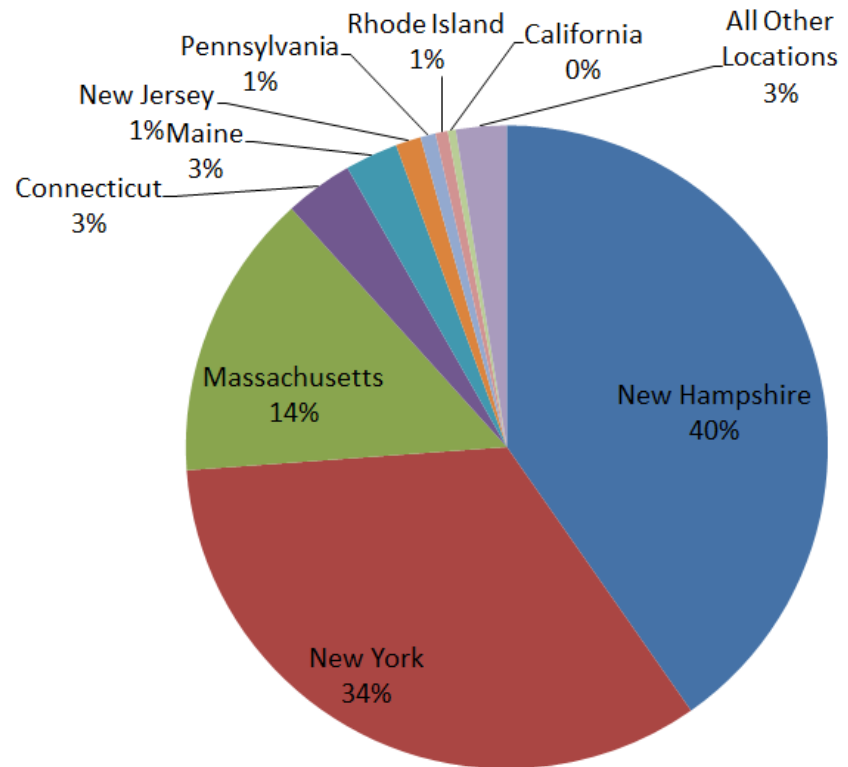
# Employment & Health Insurance Coverage

## *Out-of-state workers, employed in Vermont*

- 9% of workers employed in Vermont, live out-of-state
- Most live in NH or NY

### Where do they live? (2011 Data)

New Hampshire	10,606
New York	8,841
Massachusetts	3,803
Connecticut	905
Maine	701
New Jersey	335
Pennsylvania	201
Rhode Island	164
California	106
All Other Locations	671
<b>TOTAL</b>	<b>26,333</b>



# Employment & Health Insurance Coverage

## *Vermont businesses with out-of-state employees*

### Considerations

- How much do they pay in premiums for their out-of-state employees?
- How should the out-of-state employees be taken into consideration under different revenue mechanisms?
- Would these employers still provide private insurance for their out-of-state employees if their in-state employees are covered under *Green Mountain Care*?
- Should businesses be allowed to buy into *Green Mountain Care* for their out-of-state employees?
- Some large multi-state companies will likely continue to offer coverage to their VT employees, but won't want to pay twice via a new financing system.

### Data Needs

- How many businesses have out-of-state employees?
- What percent of total Vermont payroll is attributed to out-of-state workers?

## Other Health Care Relate Cross-border Considerations

- *Green Mountain Care* out-of-state network:
  - Coverage for Vermonters when they travel
  - Treatment of out-of-state dependents (e.g. college students, etc.)
- How will *Green Mountain Care* treat Vermonters who seek out-of-state specialty care?
  - E.g. Boston Children's Hospital, Mayo Clinic, etc.
- Retiree Benefits
  - Teachers/state employees/other professions that currently have retiree benefits
  - What will happen under *Green Mountain care* when they retire and move out-of-state?

# **TAX ISSUES**

# Cross-Border Tax Considerations

- “Nexus” Requirement
  - Constitutional Guidelines
  - Type of Tax
  - State Laws and Regulations
- Nexus and Equity Considerations

# Definition of Nexus

“Nexus” refers to the degree of contact an out-of-state taxpayer must have with a state in order for the state to assert its tax authority over the taxpayer.



# Overview of Nexus

- Whether nexus has been established is the initial question that must be addressed when dealing with a state tax question.
- If nexus is established between a state and an out-of-state taxpayer, then the taxpayer is required to pay and collect/remit taxes in that state.

# Nexus Standards

- Nexus standards and definitions are based on the interpretation of the following:
  - Constitutional Requirements
  - Federal Law
  - Case Law
  - State Statutes
- No bright-line rules
  - Nexus standards are continually evolving
  - Nexus inquiry is fact specific

# Nexus Standards: Constitutional Requirements

- Due Process Clause
  - Minimum connection between the state and the taxpayer to justify the state's exercise of its taxing authority
- Commerce Clause
  - Substantial nexus
  - Fair apportionment
  - Does not discriminate against interstate commerce
  - Fairly related to the services provided by the state

# Nexus Standards: Federal Law

Public Law 86-272 (15 U.S.C. 381-384A) provides:

A state may not impose a net income tax on a business on income derived within its borders from interstate commerce if the only business activity of the company within the state consists of the solicitation of orders for sales of tangible personal property, which orders are to be sent outside the state for acceptance or rejection, and, if accepted, are filled by shipment or delivery from a point outside the state.

# Nexus Standards: Type of Tax

Nexus analysis is dependent on the type of tax

- Sales and use taxes: physical presence of a taxpayer is required in order to establish nexus.
- Other taxes: state tax liability turns on the interpretation of evolving constitutional nexus standards.
  - Physical presence not required for state income taxes
  - Fact specific inquiry

# Nexus Standards: State Laws and Regulations

- Income Tax: Employer required to withhold from:
  - Vermont residents; and
  - Out-of-state residents with wages, salaries, and commissions received with respect to services performed within Vermont.
- Corporate Income Tax: Tax is applied to the amount of a corporation's net income (income derived from any trade, business, or activity) that is apportioned to the State.
- Sales and Use Tax: Physical presence required

# Nexus and Equity Considerations

If nexus is established, will tax be “fair”?

- Would a NH employer with no VT connection except for one VT employee (who is GMC eligible) have sufficient nexus to enforce a payroll tax?
- Would a VT employer employing an MA resident (who is not GMC eligible) have sufficient nexus to enforce a payroll tax?

# Nexus and Equity Considerations

- It is not required that concepts of nexus and equity match
- Other examples of nexus/equity divergence under Vermont law:
  - Lottery ticket sales tax > Education Fund
  - Sales and use tax > Education Fund
  - Cigarette tax > State Health Care Resources Fund