

1 **Poirier Health Care Advocate language for S.152 (w/ related amendments)**

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

3 CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

4 § 9601. DEFINITIONS

5 As used in this chapter:

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

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

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

14 § 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

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

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

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

3 § 9603. DUTIES AND AUTHORITY

4 (a) The Office of the Health Care Advocate shall:

5 (1) Assist health insurance consumers with health insurance plan  
6 selection by providing information, referrals, and assistance to individuals and  
7 employers with not more than 10 full-time equivalent employees about means  
8 of obtaining health insurance coverage and services. The Office shall accept  
9 referrals from the Vermont Health Benefit Exchange and Exchange navigators  
10 created pursuant to 33 V.S.A. chapter 18, subchapter 1, to assist consumers  
11 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 employers with not more than 10 full-time  
20 equivalent employees who purchase insurance for their employees, and assist  
21 those consumers with filing and pursuit 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 the Health Care Advocate 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 the Health Care Advocate shall be able to speak on behalf  
15           of the interests of health care and health insurance consumers and to carry out  
16           all duties prescribed in this chapter without being subject to any disciplinary or  
17           retaliatory action; provided, however, that nothing in this subsection shall limit  
18           the authority of the Director of Health Care Reform to enforce the terms of the  
19           contract.

1        § 9604. DUTIES OF STATE AGENCIES

2            All state agencies shall comply with reasonable requests from the Office of  
3        the Health Care Advocate for information and assistance. The Agency of  
4        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 the Health Care Advocate, its  
10       employees, and its contractors shall not disclose the identity of the complainant  
11       or individual.

12       § 9606. CONFLICTS OF INTEREST

13           The Office of the Health Care Advocate, its employees, and its contractors  
14       shall not have any conflict of interest relating to the performance of their  
15       responsibilities under this chapter. For the purposes of this chapter, a conflict  
16       of interest exists whenever the Office of the Health Care Advocate, its  
17       employees, or its contractors or a person affiliated with the Office, its  
18       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 § 9607. CONSUMER ASSISTANCE SURCHARGE

9           (a) The premium for each health insurance policy issued in this state shall  
10 include a monthly consumer assistance surcharge of \$0.50 per covered life to  
11 fund the activities of the Office of the Health Care Advocate. Each health  
12 insurer shall remit the surcharges collected during the preceding calendar  
13 quarter to the Commissioner of Financial Regulation by July 15, October 15,  
14 January 15, and April 15 of each year.

15           (b) As used in this section:

16           (1) "Health insurance" means any group or individual health care benefit  
17 policy, contract, or other health benefit plan offered, issued, renewed, or  
18 administered by any health insurer, including any health care benefit plan  
19 offered, issued, renewed, or administered by any health insurance company,  
20 any nonprofit hospital and medical service corporation, or any managed care  
21 organization as defined in 18 V.S.A. § 9402. The term includes comprehensive

1 major medical policies, contracts, or plans but does not include Medicaid,  
2 VHAP, or any other state health care assistance program financed in whole or  
3 in part through a federal program. The term does not include policies issued for  
4 specified disease, accident, injury, hospital indemnity, dental care, long-term  
5 care, disability income, or other limited benefit health insurance policies.

6 (2) "Health insurer" means any person who offers, issues, renews, or  
7 administers a health insurance policy, contract, or other health benefit plan in  
8 this state and includes third-party administrators or pharmacy benefit managers  
9 who provide administrative services only for a health benefit plan offering  
10 coverage in this state. The term does not include a third-party administrator or  
11 pharmacy benefit manager to the extent that a health insurer has collected and  
12 remitted the surcharges which would otherwise be imposed on the covered  
13 lives attributed to the third-party administrator or pharmacy benefit manager.  
14 The term also does not include a health insurer with a monthly average of  
15 fewer than 200 Vermont insured lives.

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

17 (f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall  
18 seek ~~the advice of the state health care ombudsman established in 8 V.S.A.~~  
19 ~~§ 4089w~~ from the Office of the Health Care Advocate. The ~~state health care~~  
20 ~~ombudsman~~ Office shall advise the ~~board~~ Board regarding the policies,  
21 procedures, and rules established pursuant to this chapter. The ~~ombudsman~~

1 Office shall represent the interests of Vermont patients and Vermont  
2 consumers of health insurance and may suggest policies, procedures, or rules  
3 to the ~~board~~ Board in order to protect patients' and consumers' interests.

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

5 (e) The ~~board~~ Board or designee shall convene a broad-based group of  
6 stakeholders, including health care professionals who provide health services,  
7 health insurers, professional organizations, community and nonprofit groups,  
8 consumers, businesses, school districts, the ~~state health care ombudsman~~  
9 Office of the Health Care Advocate, and state and local governments, to advise  
10 the ~~board~~ Board in developing and implementing the pilot projects and to  
11 advise the Green Mountain Care ~~board~~ Board in setting overall policy goals.

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

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

19 (B) The ~~commissioner~~ Commissioner shall convene a working group  
20 composed of the ~~commissioner of mental health, the commissioner of Vermont~~  
21 ~~health access~~ Commissioner of Mental Health, the Commissioner of Vermont

1 ~~Health Access~~, health care consumers, the ~~office of the health care ombudsman~~  
2 Office of the Health Care Advocate, employers and other payers, health care  
3 providers and facilities, the Vermont ~~program for quality in health care~~  
4 Program for Quality in Health Care, health insurers, and any other individual  
5 or group appointed by the ~~commissioner~~ Commissioner to advise the  
6 ~~commissioner~~ Commissioner on the development and implementation of the  
7 consumer health care price and quality information system.

8 \* \* \*

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

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

11 \* \* \*

12 (9) The ~~health care ombudsman's office~~ Office of the Health Care  
13 Advocate established under ~~8 V.S.A. chapter 107, subchapter 1A~~ chapter 229  
14 of this title or, in the case of nursing homes, the ~~long term care ombudsman's~~  
15 ~~office~~ Long-Term Care Ombudsman's Office established under 33 V.S.A. §  
16 7502; is authorized but not required to participate in any administrative or  
17 judicial review of an application under this subchapter and shall be considered  
18 an interested party in such proceedings upon filing a notice of intervention  
19 with the ~~board~~ Board.

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

1 (b) In addition to all other sanctions, if any person offers or develops any  
2 new health care project without first having been issued a certificate of need or  
3 certificate of exemption ~~therefore for the project~~, or violates any other  
4 provision of this subchapter or any lawful rule ~~or regulation promulgated~~  
5 ~~thereunder adopted pursuant to this subchapter~~, the ~~board~~ Board, the  
6 ~~commissioner~~ Commissioner, the ~~state health care ombudsman~~ Office of the  
7 Health Care Advocate, the ~~state long term care ombudsman~~ State Long-Term  
8 Care Ombudsman, and health care providers and consumers located in the state  
9 shall have standing to maintain a civil action in the superior court of the county  
10 ~~wherein in which~~ such alleged violation has occurred, or ~~wherein in which~~  
11 such person may be found, to enjoin, restrain, or prevent such violation. Upon  
12 written request by the ~~board~~ Board, it shall be the duty of the ~~attorney general~~  
13 ~~of the state~~ Vermont Attorney General to furnish appropriate legal services and  
14 to prosecute an action for injunctive relief to an appropriate conclusion, which  
15 shall not be reimbursed under subdivision (a)(2) of this ~~subsection~~ section.

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

17 § 1805. DUTIES AND RESPONSIBILITIES

18 The Vermont ~~health benefit exchange~~ Health Benefit Exchange shall have  
19 the following duties and responsibilities consistent with the Affordable  
20 Care Act:

21 \* \* \*



1 \* \* \*

2 (3) In addition to the public comment provisions set forth in this  
3 subsection, ~~a consumer representative acting on behalf of health insurance~~  
4 ~~consumers in this State the Office of the Health Care Advocate established~~  
5 ~~in 18 V.S.A. chapter 229~~ may, within 30 calendar days after the Board  
6 receives an insurer's rate request pursuant to this section, submit ~~to the Board,~~  
7 ~~in writing, suggested~~ questions regarding the filing ~~for the Board to provide~~  
8 ~~to its to the insurer and to the Board's~~ contracting actuary, if any.

9 (e)(d)(1) No later than 60 calendar days after receiving an insurer's rate  
10 request pursuant to this section, the Green Mountain Care Board shall make  
11 available to the public the insurer's rate filing, the Department's analysis and  
12 opinion of the effect of the proposed rate on the insurer's solvency, and the  
13 analysis and opinion of the rate filing by the Board's contracting actuary,  
14 if any.

15 (2) The Board shall post on its website, after redacting any confidential  
16 or proprietary information relating to the insurer or to the insurer's rate filing:

17 (A) all questions the Board poses to its contracting actuary, if any,  
18 and the actuary's responses to the Board's questions; ~~and~~

19 (B) all questions the Office of the Health Care Advocate poses to  
20 the Board's contracting actuary, if any, and the actuary's responses to the  
21 Office's questions; and

1           (C) all questions the Board, the Board’s contracting actuary, if any,  
2 ~~or the Department, or the Office of the Health Care Advocate~~ poses to the  
3 insurer and the insurer’s responses to those questions.

4           (e) Thirty calendar days after making the rate filing and analysis available  
5 to the public pursuant to subsection (d) of this section, the Board shall:

6           (1) conduct a public hearing, at which the Board shall:

7           (A) call as witnesses the Commissioner of Financial Regulation or  
8 designee and the Board’s contracting actuary, if any, unless all parties agree to  
9 waive such testimony; and

10           (B) provide an opportunity for testimony from the insurer~~s~~, the  
11 ~~Office of the Health Care Advocate, Health Care Ombudsman; the~~  
12 ~~consumer representative, if such person is not employed by the Health~~  
13 ~~Care Ombudsman;~~ and members of the public;

14           (2) at a public hearing, announce the Board’s decision of whether to  
15 approve, modify, or disapprove the proposed rate; and

16           (3) issue its decision in writing.

17           (f)(1) The insurer shall notify its policyholders of the Board’s decision in a  
18 timely manner, as defined by the Board by rule.

19           (2) Rates shall take effect on the date specified in the insurer’s rate  
20 filing.

