

Act No. 48 (H.202). Health; health insurance; health care reform; health benefit exchange; Green Mountain Care; Medicaid; payment reform; health information technology; health care workforce; rate review

This act creates Green Mountain Care, a publicly financed health care program designed to contain costs and to provide comprehensive, affordable, high-quality health care coverage for all Vermont residents. The act sets out 14 principles as a framework for reforming health care in Vermont and expands the list of Vermont's ongoing health care reform efforts. It requires the creation of a strategic plan for health care reform, a proposal on medical malpractice reform, a work plan for the newly created Green Mountain Care board, and several other reports and proposals to be submitted to the general assembly.

The act creates an independent, five-member Green Mountain Care board to improve the health of Vermonters, reduce the rate of growth in health care expenditures, enhance the patient and health care professional experience of care, recruit and retain high-quality health care professionals, and achieve administrative simplification. Members of the board serve six-year terms and are subject to conflict-of-interest provisions. The act sets the salary of the chair of the Green Mountain Care board as equal to that of a superior judge; the salary for the remaining members of the board is two-thirds of the chair's salary.

The act details the board's duties, which include setting payment rates for health care professionals; overseeing and evaluating the development and implementation of health care payment and delivery system reforms, including evaluating payment reform pilot projects developed and implemented by the director of payment reform in the department of Vermont health access (DVHA); reviewing and approving recommendations from the commissioner of banking, insurance, securities, and health care administration (BISHCA) on health insurance rate increases, hospital budgets, and certificates of need; reviewing and approving the benefit packages for qualified health plans to be offered in the Vermont Health Benefit Exchange; defining the Green Mountain Care benefit package; and recommending annually a three-year Green Mountain Care budget.

The act creates a Green Mountain Care board nominating committee to nominate the chair and members of the Green Mountain Care board. The committee comprises nine members who serve two-year terms. The committee selects candidates from among the applicants for vacant positions on the Green Mountain Care board, assesses the candidates based on specified qualifications, and submits the names of qualified candidates to the governor. The governor will appoint an individual to the board from the list of qualified candidates, subject to the consent of the senate. Notwithstanding the statutory process established in the act,

the act requires the governor, speaker of the house, and president pro tempore of the senate to appoint the members of the first Green Mountain Care board nominating committee and to do so no later than June 1, 2011. The act directs the governor to appoint the members of the initial Green Mountain Care board to begin employment no earlier than October 1, 2011.

The act requires the state health care ombudsman to monitor the Green Mountain Care board's activities. It also transfers 10 positions from BISHCA to the Green Mountain Care board and creates new positions in state government for the Green Mountain Care board and its staff, for a deputy commissioner of DVHA for the Vermont Health Benefit Exchange, and for a director of health care reform in the agency of administration. The act codifies existing payment reform activities, including pilot projects and health insurer participation requirements. It also subjects the Green Mountain Care board to the same prescribed product manufacturer gift ban and disclosure requirements as apply to health care professionals.

The act creates the Vermont Health Benefit Exchange (the "Exchange") in DVHA to provide qualified individuals and qualified employers with qualified health benefit plans as required by the federal Patient Protection and Affordable Care Act ("Affordable Care Act"). It allows the Exchange to contract with public and private entities to carry out some of its functions and authorizes the Exchange to offer certain programs and services to employers and to insurers offering plans outside the Exchange. The act lists the duties of the Exchange, many of which are required by the Affordable Care Act. It specifies the benefits that a qualified health benefit plan must provide in order to be offered through the Exchange, including the essential benefits package required by the Affordable Care Act, certain insurance and consumer information requirements, and specific cost-sharing limitations. It also requires health insurers to charge the same premium for the same plan both inside and outside the Exchange. The act requires the Exchange to establish a navigator program to help individuals and employers enroll in public health benefit programs and in plans offered through the Exchange. It directs the Exchange to make available to the public information about costs associated with the Exchange and the results of satisfaction surveys about the plans offered in the Exchange. The act requires DVHA to contract with at least two health insurers to provide qualified health benefit plans in the Vermont Health Benefit Exchange, as long as at least two are interested in participating.

The act creates Green Mountain Care, a publicly financed universal health care program to be implemented after (1) Vermont receives a waiver from the federal Exchange requirement; (2) the general assembly enacts a law to finance the program; (3) the Green Mountain

Care board approves the initial benefit package; (4) the general assembly passes the appropriations for the initial benefit package; and (5) the Green Mountain Care board makes specific determinations about the program's impacts. All Vermont residents are eligible for Green Mountain Care, which must include at least the same covered services as are available in Catamount Health. The act directs the Green Mountain Care board to define the Green Mountain Care benefit package, to be adopted by the agency of human services by rule. It also establishes penalties for providing false information in order to receive services under Green Mountain Care.

The act states the intent of the general assembly that all Green Mountain Care enrollees will have a primary health care professional involved with the Blueprint for Health within five years following Green Mountain Care's implementation. It requires the agency of human services to solicit bids from and award contracts to public or private entities for administration of certain aspects of Green Mountain Care, such as claims administration and provider relations. The act specifies that it does not require an individual with other health coverage to terminate that coverage, and it allows an individual enrolled in Green Mountain Care to choose to maintain supplemental health insurance.

The act requires BISHCA to ask questions on its household health insurance survey about whether people have moved to Vermont to receive health services. It makes findings about the provision of health coverage for undocumented immigrants, requires the Green Mountain Care board to examine and report on the costs of covering and not covering undocumented immigrants through Green Mountain Care, and directs the secretary of administration to work with Vermont's congressional delegation to resolve issues regarding these immigrants.

The act replaces the existing Medicaid Advisory Committee with a new advisory committee to advise the DVHA commissioner on issues related to the Exchange, Medicaid, and Medicaid-funded programs, as required by federal law. The act also transfers the health care eligibility unit from the department for children and families to DVHA.

The act requires the secretary of administration or designee to make recommendations by January 15, 2012 on several issues related to implementation of the Vermont health benefit exchange and Green Mountain Care, including the advisability of establishing a basic health program for individuals between 133 and 200 percent of the federal poverty level; how to address health insurance policies for associations; whether to define a small employer for purposes of the Exchange in 2014 and 2015 as an employer with up to 50 employees or an employer with up to 100 employees; whether to allow qualified and nonqualified plans to be offered both inside and outside the Exchange; the design of

a common benefit package for the Exchange; the impact of supplemental insurance plans on offerings in the small group and individual markets; the potential for bulk purchasing of prescription drugs in Green Mountain Care; whether and how to allow for supplemental coverage once Green Mountain Care has been implemented; and how to align existing programs fully in order to achieve administrative simplification. The act directs the commissioner of labor to lead an evaluation of the feasibility of integrating or aligning Vermont's workers' compensation system with Green Mountain Care and to report on the results and recommendations by January 15, 2012. In addition, the act requires the commissioner of DVHA, in consultation with the commissioners of BISHCA, of taxes, and of motor vehicles, to recommend by January 15, 2012 ways to ensure that Vermonters comply with the minimum essential coverage requirements in the Affordable Care Act.

The act requires the secretary of administration or designee to recommend two financing plans to the legislative committees of jurisdiction by January 15, 2013. One plan will recommend financing amounts and mechanisms that must be in place by January 1, 2014. The second financing plan will recommend the amounts and mechanisms necessary for Green Mountain Care and will address coverage issues related to individuals who live or work in neighboring states. Both plans will also address several financing-related issues, including potential financing sources, funding needs, and financing mechanisms. The act requires the secretary or designee to consult with interested stakeholders to determine the potential impact of various financing sources on Vermont businesses and on the state's economy and economic climate, and to report these findings and any related recommendations by February 1, 2012. It requires the secretary or designee to solicit public input when designing the financing plan for Green Mountain Care and to provide opportunities for public engagement. It also directs the secretary or designee to consider strategies to address individuals who currently receive health coverage through federal governmental or foreign sources.

The act requires the secretary of administration or designee, in consultation with the Green Mountain Care board and the DVHA commissioner, to review Vermont's health information technology plan to ensure that it reflects the creation of the Exchange and Green Mountain Care and furthers efforts toward their implementation, and the act allows the secretary to contract out for some of this work. The act requires the secretary or designee to report to the committees of jurisdiction by January 15, 2012 on how to unify Vermont's current efforts around health system planning, regulation, and public health. The act also directs the Green Mountain Care board, in consultation with the BISHCA commissioner, to recommend to the legislative

committees of jurisdiction by March 15, 2012 any changes needed to align regulatory processes with the payment reform strategic plan.

The act requires the director of health care reform in the agency of administration to oversee the development and maintenance of a health care workforce development strategic plan to ensure that Vermont has the health care workforce necessary to provide care to all Vermonters. It requires the director and others to collaborate on a plan to address the retraining needs of employees displaced by implementation of the Exchange and Green Mountain Care and to present the plan to the legislative committees of jurisdiction by January 15, 2012. It also directs the board of nursing, board of medical practice, and office of professional regulation to review licensure issues and make joint recommendations to the legislative committees of jurisdiction by January 15, 2012 on ways to improve the primary care workforce.

The act requires the Green Mountain Care board to consider (1) paying health care providers for completing requests for prior authorization; and (2) exempting health care professionals from prior authorization requirements for specific services in Green Mountain Care if their requests for prior authorization for those services are routinely granted. The act directs the legislative joint fiscal office and BISHCA to provide to the legislative committees of jurisdiction an initial draft estimate by April 21, 2011 of the costs of Vermont's current health care system compared to the costs of the system upon implementation of Green Mountain Care and other reforms. A final estimate is due by November 1, 2011. In addition, the act allows the standing committees of jurisdiction to meet when the legislature is not in session to receive updates on progress toward implementation of the act.

The act adds Green Mountain Care board approval, as well as public participation and disclosure requirements, to the health insurance rate review process. It repeals the public oversight commission. It requires employers to provide their employees with an annual statement of health benefit plan costs, including the employer and employee shares of the premium and of out-of-pocket expenses, but exempts from the state requirement employers who comply with a similar federal requirement once the federal requirement is implemented. The act also requires DVHA to post on its website the per-member per-month cost for each of its health benefit programs and the state's and beneficiary's share of the cost.

The act requires the BISHCA commissioner to report to the legislative committees of jurisdiction by January 15, 2012 on the advantages and disadvantages of adopting the National Association of Insurance Commissioners' model act prohibiting discretionary clauses in health insurance contracts. It directs DVHA to make

recommendations to the committees of jurisdiction by January 15, 2012 on the feasibility of using a single prescription drug formulary for the state.

The act extends through July 1, 2014 the period during which the commissioners of health and of DVHA are directed to seek grants and other beneficial opportunities for Vermont provided by the Affordable Care Act. It also extends the primary care workforce development committee established in Act 128 of 2010 through June 30, 2011. Multiple effective dates, beginning May 26, 2011