

House Proposal of Amendment

S.139

An act relating to pharmacy benefit managers and hospital observation status.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Pharmacy Benefit Managers * * *

Sec. 1. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

* * *

(6) “Maximum allowable cost” means the per unit drug product reimbursement amount, excluding dispensing fees, for a group of equivalent multisource generic prescription drugs.

Sec. 2. 18 V.S.A. § 9473 is amended to read:

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES

WITH RESPECT TO PHARMACIES

* * *

(c) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

* * * Notice of Hospital Observation Status * * *

Sec. 3. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

* * *

(22) All hospitals shall provide oral and written notices to each individual that the hospital places in observation status as required by section 1911a of this title.

Sec. 4. 18 V.S.A. § 1911a is added to read:

1911a. NOTICE OF HOSPITAL OBSERVATION STATUS

(a)(1) Each hospital shall provide oral and written notice to each Medicare beneficiary that the hospital places in observation status as soon as possible but no later than 24 hours following such placement, unless the individual is discharged or leaves the hospital before the 24-hour period expires. The written notice shall be a uniform form developed by the Department of Health, in consultation with interested stakeholders, for use in all hospitals.

(2) If a patient is admitted to the hospital as an inpatient before the notice of observation has been provided, and under Medicare rules the observation services may be billed as part of the inpatient stay, the hospital shall not be required to provide notice of observation status.

(b) Each oral and written notice shall include:

(1) a statement that the individual is under observation as an outpatient and is not admitted to the hospital as an inpatient;

(2) a statement that observation status may affect the individual's Medicare coverage for hospital services, including medications and

pharmaceutical supplies, and for rehabilitative or skilled nursing services at a skilled nursing facility if needed upon discharge from the hospital; and

(3) a statement that the individual may contact the Office of the Health Care Advocate or the Vermont State Health Insurance Assistance Program to understand better the implications of placement in observation status.

(c) Each written notice shall include the name and title of the hospital representative who gave oral notice; the date and time oral and written notice were provided; the means by which written notice was provided, if not provided in person; and contact information for the Office of the Health Care Advocate and the Vermont State Health Insurance Assistance Program.

(d) Oral and written notice shall be provided in a manner that is understandable by the individual placed in observation status or by his or her representative or legal guardian.

(e) The hospital representative who provided the written notice shall request a signature and date from the individual or, if applicable, his or her representative or legal guardian, to verify receipt of the notice. If a signature and date were not obtained, the hospital representative shall document the reason.

Sec. 4a. NOTICE OF OBSERVATION STATUS FOR PATIENTS WITH
COMMERCIAL INSURANCE

The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate consider the appropriate notice of hospital observation status that patients with commercial insurance should receive and the circumstances under which such notice should be provided. The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate provide their findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare on or before January 15, 2016.

* * * Reports * * *

Sec. 5. VERMONT HEALTH CARE INNOVATION PROJECT; UPDATES

The Project Director of the Vermont Health Care Innovation Project (VHCIP) shall provide an update at least quarterly to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee regarding VHCIP implementation and the use of the federal State Innovation Model (SIM) grant funds. The Project Director's update shall include information regarding:

(1) the VHCIP pilot projects and other initiatives undertaken using SIM grant funds, including a description of the projects and initiatives, the timing of their implementation, the results achieved, and the replicability of the results;

(2) how the VHCIP projects and initiatives fit with other payment and delivery system reforms planned or implemented in Vermont;

(3) how the VHCIP projects and initiatives meet the goals of improving health care access and quality and reducing costs;

(4) how the VHCIP projects and initiatives will reduce administrative costs;

(5) how the VHCIP projects and initiatives compare to the principles expressed in 2011 Acts and Resolves No. 48;

(6) what will happen to the VHCIP projects and initiatives when the SIM grant funds are no longer available; and

(7) how to protect the State's interest in any health information technology and security functions, processes, or other intellectual property developed through the VHCIP.

Sec. 6. REDUCING DUPLICATION OF SERVICES; REPORT

(a) The Agency of Human Services shall evaluate the services offered by each entity licensed, administered, or funded by the State, including the designated agencies, to provide services to individuals receiving home- and community-based long-term care services or who have developmental

disabilities, mental health needs, or substance use disorder. The Agency shall determine areas in which there are gaps in services and areas in which programs or services are inconsistent with the Health Resource Allocation Plan or are overlapping, duplicative, or otherwise not delivered in the most efficient, cost-effective, and high-quality manner and shall develop recommendations for consolidation or other modification to maximize high-quality services, efficiency, service integration, and appropriate use of public funds.

(b) On or before January 15, 2016, the Agency shall report its findings and recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

* * * Strengthening Affordability and Access to Health Care * * *

Sec. 7. 33 V.S.A. § 1812(b) is amended to read:

(b)(1) An individual or family with income at or below 300 percent of the federal poverty guideline shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

(2) The Department of Vermont Health Access shall establish cost-sharing assistance on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. Cost-sharing assistance shall be established as follows:

(A) for households with income at or below 150 percent of the federal poverty level (FPL): 94 percent actuarial value;

(B) for households with income above 150 percent FPL and at or below 200 percent FPL: 87 percent actuarial value;

(C) for households with income above 200 percent FPL and at or below 250 percent FPL: ~~77~~ 83 percent actuarial value;

(D) for households with income above 250 percent FPL and at or below 300 percent FPL: ~~73~~ 79 percent actuarial value.

(3) Cost-sharing assistance shall be available for the same qualified health benefit plans for which federal cost-sharing assistance is available and administered using the same methods as set forth in Section 1402 of the Affordable Care Act.

Sec. 8. COST-SHARING SUBSIDY; APPROPRIATION

(a) Increasing the cost-sharing subsidies available to Vermont residents will not only make it easier for people with incomes below 300 percent of the federal poverty level to access health care services, but it may encourage some residents without insurance to enroll for coverage if they know they will be able to afford to use it.

(b) The sum of \$761,308.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 for the Exchange

cost-sharing subsidies for individuals at the actuarial levels in effect on
January 1, 2015.

(c) The sum of \$2,000,000.00 is appropriated from the General Fund to the
Department of Vermont Health Access in fiscal year 2016 to increase
Exchange cost-sharing subsidies beginning on January 1, 2016 to provide
coverage at an 83 percent actuarial value for individuals with incomes between
200 and 250 percent of the federal poverty level and at a 79 percent actuarial
value for individuals with incomes between 250 and 300 percent of the federal
poverty level.

* * * Strengthening Primary Care * * *

Sec. 9. INVESTING IN PRIMARY CARE SERVICES

The sum of \$7,000,000.00 in Global Commitment funds is appropriated to
the Department of Vermont Health Access in fiscal year 2016 to increase
reimbursement rates for primary care providers for services provided to
Medicaid beneficiaries.

Sec. 10. BLUEPRINT FOR HEALTH INCREASES

(a) The sum of \$4,085,826.00 in Global Commitment funds is appropriated
to the Department of Vermont Health Access in fiscal year 2016 to increase
payments to patient-centered medical homes and community health teams
pursuant to 18 V.S.A. § 702.

(b) In its use of the funds appropriated in this section, the Blueprint for Health shall work collaboratively to begin including family-centered approaches and adverse childhood experience screenings consistent with the report entitled “Integrating ACE-Informed Practice into the Blueprint for Health.” Considerations should include prevention, early identification, and screening, as well as reducing the impact of adverse childhood experiences through trauma-informed treatment and suicide prevention initiatives.

Sec. 11. AREA HEALTH EDUCATION CENTERS

The sum of \$700,000.00 in Global Commitment funds is appropriated to the Department of Health in fiscal year 2016 for a grant to the Area Health Education Centers for repayment of educational loans for health care providers and health care educators.

* * * Investing in Structural Reform for Long-Term Savings * * *

Sec. 12. GREEN MOUNTAIN CARE BOARD; ALL-PAYER WAIVER;
RATE-SETTING

(a) The sum of \$862,767.00 is appropriated to the Green Mountain Care Board in fiscal year 2016, of which \$184,636.00 comes from the General Fund, \$224,774.00 is in Global Commitment funds, \$393,357.00 comes from the Board’s bill-back authority pursuant to 18 V.S.A. § 9374(h), and \$60,000.00 comes from the Health IT-Fund.

(b) Of the funds appropriated pursuant to this section, the Board shall use:

(1) \$502,767.00 for positions and operating expenses related to the Board's provider rate-setting authority, the all-payer model, and the Medicaid cost shift;

(2) \$300,000.00 for contracts and third-party services related to the all-payer model, provider rate-setting, and the Medicaid cost shift; and

(3) \$60,000.00 to provide oversight of the budget and activities of the Vermont Information Technology Leaders, Inc.

Sec. 13. GREEN MOUNTAIN CARE BOARD; POSITIONS

(a) On July 1, 2015, two classified positions are created for the Green Mountain Care Board.

(b) On July 1, 2015, one exempt position, attorney, is created for the Green Mountain Care Board.

* * * Consumer Information, Assistance, and Representation * * *

Sec. 14. OFFICE OF THE HEALTH CARE ADVOCATE;

APPROPRIATION; INTENT

(a) The Office of the Health Care Advocate has a critical function in the Vermont's health care system. The Health Care Advocate provides information and assistance to Vermont residents who are navigating the health care system and represents their interests in interactions with health insurers, health care providers, Medicaid, the Green Mountain Care Board, the General

Assembly, and others. The continuation of the Office of the Health Care Advocate is necessary to achieve additional health care reform goals.

(b) The sum of \$40,000.00 is appropriated from the General Fund to the Agency of Administration in fiscal year 2016 for its contract with the Office of the Health Care Advocate.

(c) It is the intent of the General Assembly that, beginning with the 2017 fiscal year budget, the Governor's budget proposal developed pursuant to 32 V.S.A. chapter 5 should include a separate provision identifying the aggregate sum to be appropriated from all State sources to the Office of the Health Care Advocate.

Sec. 15. CONSUMER INFORMATION AND PRICE TRANSPARENCY

The Green Mountain Care Board shall evaluate potential models for providing consumers with information about the cost and quality of health care services available across the State, including a consideration of the models used in Maine, Massachusetts, and New Hampshire, as well as any platforms developed and implemented by health insurers doing business in this State. On or before October 1, 2015, the Board shall report its findings and a proposal for a robust Internet-based consumer health care information system to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

* * * Universal Primary Care * * *

Sec. 16. PURPOSE

The purpose of Secs. 16 through 20 of this act is to establish the administrative framework and reduce financial barriers as preliminary steps to the implementation of the principles set forth in 2011 Acts and Resolves No. 48 to enable Vermonters to receive necessary health care and examine the cost of providing primary care to all Vermonters without deductibles, coinsurance, or co-payments or, if necessary, with limited cost-sharing.

Sec. 17. [Deleted.]

Sec. 18. DEFINITION OF PRIMARY CARE

As used in Secs. 16 through 20 of this act, “primary care” means health services provided by health care professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and includes pediatrics, internal and family medicine, gynecology, primary mental health services, and other health services commonly provided at federally qualified health centers. Primary care does not include dental services.

Sec. 19. COST ESTIMATES FOR UNIVERSAL PRIMARY CARE

(a) On or before October 15, 2015, the Joint Fiscal Office, in consultation with the Green Mountain Care Board and the Secretary of Administration or

designee, shall provide to the Joint Fiscal Committee, the Health Reform Oversight Committee, the House Committees on Appropriations, on Health Care, and on Ways and Means, and the Senate Committees on Appropriations, on Health and Welfare, and on Finance an estimate of the costs of providing primary care to all Vermont residents, with and without cost-sharing by the patient, beginning on January 1, 2017.

(b) The report shall include an estimate of the cost of primary care to those Vermonters who access it if a universal primary care plan is not implemented, and the sources of funding for that care, including employer-sponsored and individual private insurance, Medicaid, Medicare, and other government-sponsored programs, and patient cost-sharing such as deductibles, coinsurance, and co-payments.

(c) Departments and agencies of State government and the Green Mountain Care Board shall provide such data to the Joint Fiscal Office as needed to permit the Joint Fiscal Office to perform the estimates and analysis required by this section. If necessary, the Joint Fiscal Office may enter into confidentiality agreements with departments, agencies, and the Board to ensure that confidential information provided to the Office is not further disclosed.

Sec. 20. APPROPRIATION

Up to \$200,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2016 to be used for assistance in the calculation of the cost

estimates required in Sec. 19 of this act; provided, however, that the appropriation shall be reduced by the amount of any external funds received by the Office to carry out the estimates and analysis required by Sec. 19.

* * * Green Mountain Care Board * * *

Sec. 21. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. Vermont Information Technology Leaders, Inc. shall be an interested party in the Board's review.

(B) Review and approve the criteria required for health care providers and health care facilities to create or maintain connectivity to the State's health information exchange as set forth in section 9352 of this title. Within 90 days following this approval, the Board shall issue an order explaining its decision.

(C) Annually review and approve the budget, consistent with available funds, and the core activities associated with public funding, of the Vermont Information Technology Leaders, Inc., which shall include establishing the interconnectivity of electronic medical records held by health

care professionals, and the storage, management, and exchange of data received from such health care professionals, for the purpose of improving the quality of and efficiently providing health care to Vermonters. This review shall take into account the Vermont Information Technology Leaders' responsibilities in section 9352 of this title and shall be conducted according to a process established by the Board by rule pursuant to 3 V.S.A. chapter 25.

* * *

Sec. 21a. 18 V.S.A. § 9376(b)(2) is amended to read:

(2) Nothing in this subsection shall be construed to:

(A) limit the ability of a health care professional to accept less than the rate established in subdivision (1) of this subsection from a patient without health insurance or other coverage for the service or services received; or

(B) reduce or limit the covered services offered by Medicare or Medicaid.

* * * Vermont Information Technology Leaders * * *

Sec. 22. 18 V.S.A. § 9352 is amended to read:

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. ~~The General Assembly and the Governor shall each appoint one representative to the~~ Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of

the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed.

The Board of Directors shall comprise the following:

(A) one member of the General Assembly, appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, who shall be entitled to the same per diem compensation and expense reimbursement pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the General Assembly;

(B) one individual appointed by the Governor;

(C) one representative of the business community;

(D) one representative of health care consumers;

(E) one representative of Vermont hospitals;

(F) one representative of Vermont physicians;

(G) one practicing clinician licensed to practice medicine

in Vermont;

(H) one representative of a health insurer licensed to do business

in Vermont;

(I) the President of VITL, who shall be an ex officio, nonvoting member;

(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and

(K) two at-large members.

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

(b) Conflict of interest. In carrying out their responsibilities under this section, Directors of VITL shall be subject to conflict of interest policies established by the Secretary of Administration to ensure that deliberations and decisions are fair and equitable.

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. ~~The~~ After the Green Mountain Care Board approves VITL's core activities and budget pursuant to chapter 220 of this title, the Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to 8 V.S.A. § 4089k. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the contrary, upon request of the Secretary of Administration, the Department of Information and Innovation shall review VITL's technology for security, privacy, and interoperability with State government information technology, consistent with the State's health information technology plan required by section 9351 of this title.

* * *

* * * Referral Registry * * *

Sec. 23. REFERRAL REGISTRY

On or before October 1, 2015, the Department of Mental Health and the Division of Alcohol and Drug Abuse Programs in the Department of Health shall develop jointly a registry of mental health and addiction services providers in Vermont, organized by county. The registry shall be updated at least annually and shall be made available to primary care providers participating in the Blueprint for Health and to the public.

* * * Ambulance Reimbursement * * *

Sec. 24. MEDICAID; AMBULANCE REIMBURSEMENT

The Department of Vermont Health Access shall evaluate the methodology used to determine reimbursement amounts for ambulance and emergency medical services delivered to Medicaid beneficiaries to determine the basis for the current reimbursement amounts and the rationale for the current level of

reimbursement, and shall consider any possible adjustments to revise the methodology in a way that is budget neutral or of minimal fiscal impact to the Agency of Human Services for fiscal year 2016. On or before December 1, 2015, the Department shall report its findings and recommendations to the House Committees on Health Care and on Human Services, the Senate Committee on Health and Welfare, and the Health Reform Oversight Committee.

* * * Direct Enrollment for Individuals * * *

Sec. 25. 33 V.S.A. § 1803(b)(4) is amended to read:

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified individuals and qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

Sec. 26. 33 V.S.A. § 1811(b) is amended to read:

(b)(1) ~~No person may provide a health benefit plan to an individual unless the plan is offered through the Vermont Health Benefit Exchange~~ To the extent permitted by the U.S. Department of Health and Human Services, an individual may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under

contract with the Vermont Health Benefit Exchange, if the carrier elects to make direct enrollment available. A registered carrier enrolling individuals in health benefit plans directly shall comply with all open enrollment and special enrollment periods applicable to the Vermont Health Benefit Exchange.

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a ~~health insurer~~ registered carrier under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

* * * Extension of Presuit Mediation * * *

Sec. 27. 12 V.S.A. chapter 215, subchapter 2 is added to read:

Subchapter 2. Mediation Prior to Filing a Complaint of Malpractice

§ 7011. PURPOSE

The purpose of mediation prior to filing a medical malpractice case is to identify and resolve meritorious claims and reduce areas of dispute prior to litigation, which will reduce the litigation costs, reduce the time necessary to resolve claims, provide fair compensation for meritorious claims, and reduce malpractice-related costs throughout the system.

§ 7012. PRESUIT MEDIATION; SERVICE

(a) A potential plaintiff may serve upon each known potential defendant a request to participate in presuit mediation prior to filing a civil action in tort or in contract alleging that an injury or death resulted from the negligence of a health care provider and to recover damages resulting from the personal injury or wrongful death.

(b) Service of the request required in subsection (a) of this section shall be in letter form and shall be served on all known potential defendants by certified mail. The date of mailing such request shall toll all applicable statutes of limitations.

(c) The request to participate in presuit mediation shall name all known potential defendants, contain a brief statement of the facts that the potential plaintiff believes are grounds for relief, and be accompanied by a certificate of merit prepared pursuant to section 1051 of this title, and may include other documents or information supporting the potential plaintiff's claim.

(d) Nothing in this chapter precludes potential plaintiffs and defendants from presuit negotiation or other presuit dispute resolution to settle potential claims.

§ 7013. MEDIATION RESPONSE

(a) Within 60 days of service of the request to participate in presuit mediation, each potential defendant shall accept or reject the potential

plaintiff's request for presuit mediation by mailing a certified letter to counsel or if the party is unrepresented to the potential plaintiff.

(b) If the potential defendant agrees to participate, within 60 days of the service of the request to participate in presuit mediation, each potential defendant shall serve a responsive certificate on the potential plaintiff by mailing a certified letter indicating that he or she, or his or her counsel, has consulted with a qualified expert within the meaning of section 1643 of this title and that expert is of the opinion that there are reasonable grounds to defend the potential plaintiff's claims of medical negligence. Notwithstanding the potential defendant's acceptance of the request to participate, if the potential defendant does not serve such a responsive certificate within the 60-day period, then the potential plaintiff need not participate in the presuit mediation under this title and may file suit. If the potential defendant is willing to participate, presuit mediation may take place without a responsive certificate of merit from the potential defendant at the plaintiff's election.

§ 7014. PROCESS; TIME FRAMES

(a) The mediation shall take place within 60 days of the service of all potential defendants' acceptance of the request to participate in presuit mediation. The parties may agree to an extension of time. If in good faith the mediation cannot be scheduled within the 60-day time period, the potential plaintiff need not participate and may proceed to file suit.

(b) If presuit mediation is not agreed to, the mediator certifies that mediation is not appropriate, or mediation is unsuccessful, the potential plaintiff may initiate a civil action as provided in the Vermont Rules of Civil Procedure. The action shall be filed upon the later of the following:

(1) within 90 days of the potential plaintiff's receipt of the potential defendant's letter refusing mediation, the failure of the potential defendant to file a responsive certificate of merit within the specified time period, or the mediator's signed letter certifying that mediation was not appropriate or that the process was complete; or

(2) prior to the expiration of the applicable statute of limitations.

(c) If presuit mediation is attempted unsuccessfully, the parties shall not be required to participate in mandatory mediation under Rule 16.3 of the Vermont Rules of Civil Procedure.

§ 7015. CONFIDENTIALITY

All written and oral communications made in connection with or during the mediation process set forth in this chapter shall be confidential. The mediation process shall be treated as a settlement negotiation under Rule 408 of the Vermont Rules of Evidence.

* * * Blueprint for Health; Reports * * *

Sec. 28. BLUEPRINT FOR HEALTH; REPORTS

(a) The 2016 annual report of the Blueprint for Health shall present an analysis of the value-added benefits and return on investment to the Medicaid program of the new funds appropriated in the fiscal year 2016 budget, including the identification of any costs avoided that can be directly attributed to those funds, and the means of the analysis that was used to draw any such conclusions.

(b) The Blueprint for Health shall explore and report back to the General Assembly on or before January 15, 2016 on potential wellness incentives.

Sec. 28a. PREVENTABLE ILLNESSES RELATED TO OBESITY

While the General Assembly is adjourned during fiscal year 2016, the Health Reform Oversight Committee shall review existing data on expenditures from the treatment of preventable illnesses related to obesity, including costs borne by the private sector, and shall survey existing and proposed policy measures to reduce the incidence of obesity in Vermont.

* * * Green Mountain Care Board; Payment Reform * * *

Sec. 29. PAYMENT REFORM AND DIFFERENTIAL PAYMENTS TO
PROVIDERS

In implementing an all-payer model and provider rate-setting, the Green Mountain Care Board shall consider:

(1) the benefits of prioritizing and expediting payment reform in primary care that shifts away from fee-for-service models;

(2) the impact of hospital acquisitions of independent physician practices on the health care system costs, including any disparities between reimbursements to hospital-owned practices and reimbursements to independent physician practices;

(3) the effects of differential reimbursement for different types of providers when providing the same services billed under the same codes; and

(4) the advantages and disadvantages of allowing health care providers to continue to set their own rates for customers without health insurance or other health care coverage.

* * * Independent Analysis of Exchange Alternatives * * *

Sec. 29a. INDEPENDENT ANALYSIS; JOINT FISCAL OFFICE

(a) The Joint Fiscal Office shall conduct a preliminary, independent risk analysis of the advantages and disadvantages, including the costs and the quantitative and qualitative benefits, of alternative options for the Vermont Health Benefit Exchange, including continuing the current State-based marketplace known as Vermont Health Connect, transitioning to a federally facilitated State-based marketplace, and other available options. The Chief of Health Care Reform shall provide the Joint Fiscal Office with regular updates on the Agency of Administration's analysis of alternative options. The Joint

Fiscal Office may enter into contracts for assistance in performing some or all of the analysis and shall provide the results of the analysis to the Joint Fiscal Committee and the Health Reform Oversight Committee on or before September 15, 2015.

(b) The sum of \$85,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2016 to conduct the analysis required by this section.

* * * Exchange Reports * * *

Sec. 29b. VERMONT HEALTH CONNECT REPORTS

The Chief of Health Care Reform shall provide monthly reports to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee regarding:

(1) the schedule, cost, and scope status of the Vermont Health Connect system's Release 1 and Release 2 development efforts, including whether any critical path items did not meet their milestone dates and the corrective actions being taken;

(2) an update on the status of current risks in Vermont Health Connect's implementation;

(3) an update on the actions taken to address the recommendations in the Auditor's report on Vermont Health Connect dated April 14, 2015 and any other audits of Vermont Health Connect; and

(4) an update on the preliminary analysis of alternatives to Vermont Health Connect.

Sec. 29c. INDEPENDENT REVIEW OF VERMONT HEALTH CONNECT

The Chief of Health Care Reform shall provide the Joint Fiscal Office with the materials provided by the Independent Verification and Validation (IVV) firms evaluating Vermont Health Connect. The reports shall be provided in a manner that protects security and confidentiality as required by any memoranda of understanding entered into by the Joint Fiscal Office and the Executive Branch. For the period between July 1, 2015 and January 1, 2016, the Joint Fiscal Office shall analyze the reports and shall provide information regarding Vermont Health Connect information technology systems at least once every two months to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee.

* * * Alternatives to Vermont Health Connect * * *

Sec. 29d. VERMONT HEALTH CONNECT OUTCOMES;

ALTERNATIVES TO VERMONT HEALTH CONNECT

(a) The Agency of Administration shall explore all feasible alternatives to Vermont Health Connect.

(b) The General Assembly expects Vermont Health Connect to achieve the following milestones with respect to qualified health plans offered in the individual market:

(1) On or before May 31, 2015, the vendor under contract with the State to implement the Vermont Health Benefit Exchange shall deliver the information technology release providing the “back end” of the technology supporting changes in circumstances and changes in information to allow for a significant reduction, as described in subdivision (5) of this subsection, in the amount of time necessary for the State to process changes requested by individuals and families enrolled in qualified health plans.

(2) On or before May 31, 2015, the State shall complete a contract to ensure automated renewal functionality for qualified health plans offered to individuals and families that has been reviewed and agreed to by the State, by registered carriers offering qualified health plans, and by the chosen vendor. The contract shall be sent to the Centers for Medicare and Medicaid Services for its review by the same date.

(3) On or before August 1, 2015, Vermont Health Connect shall develop a contingency plan for renewing qualified health plans offered to individuals and families for calendar year 2016 and shall ensure that the registered carriers offering these qualified health plans agree to the process.

(4) On or before October 1, 2015, the vendor under contract with the State for automated renewal of qualified health plans offered to individuals and families shall deliver the information technology release providing for the automated renewal of those qualified health plans.

(5) On or before October 1, 2015, Vermont Health Connect customer service representatives shall begin processing new requests for changes in circumstances and for changes in information received in the first half of a month in time to be reflected on the next invoice and shall begin processing requests for changes received in the latter half of the month in time to be reflected on one of the next two invoices.

(6) On or before October 1, 2015, registered carriers that offer qualified health plans and wish to enroll individuals and families directly shall have completed implementation of any necessary information technology upgrades.

(c) If Vermont Health Connect fails to meet one or more of the milestones set forth in subsection (b) of this section, the Agency of Administration shall begin exploring with the U.S. Department of Health and Human Services a transition to a federally supported State-based marketplace (FSSBM). The

Chief of Health Care Reform shall report on the status of the exploration at the next scheduled meetings of the Joint Fiscal Committee and the Health Reform Oversight Committee.

(d) The Joint Fiscal Committee may at any time direct the Chief of Health Care Reform to prepare an analysis and potential implementation plan regarding a transition from Vermont Health Connect to a different model for Vermont's health benefit exchange, including an FSSBM, and to present information about such a transition, including:

(1) the outcome of King v. Burwell, Docket No. 14-114 (U.S. Supreme Court), relating to whether federal advance premium tax credits will be available to reduce the cost of health insurance provided through a federally facilitated exchange, and the likely impacts on Vermont individuals and families if the State moves to an FSSBM or to another exchange model;

(2) whether it is feasible to offer State premium and cost-sharing assistance to individuals and families purchasing qualified health plans through an FSSBM or through another exchange model, how such assistance could be implemented, whether federal financial participation would be available through the Medicaid program, and applicable cost implications;

(3) how the Department of Financial Regulation's and Green Mountain Care Board's regulatory authority over health insurers and qualified health

plans would be affected, including the timing of health insurance rate and form review;

(4) any impacts on the State's other health care reform efforts, including the Blueprint for Health and payment reform initiatives;

(5) any available estimates of the costs attributable to a transition from a State-based exchange to an FSSBM or to another exchange model; and

(6) whether any new developments have occurred that affect the availability of additional alternatives that would be more beneficial to Vermonters by minimizing negative effects on individuals and families enrolling in qualified health plans, reducing the financial impacts of the transition to an alternative model, lessening the administrative burden of the transition on the registered carriers, and decreasing the potential impacts on the State's health insurance regulatory framework.

(e) On or before November 15, 2015, the Chief of Health Care Reform shall provide the Joint Fiscal Committee and Health Reform Oversight Committee with a recommendation regarding the future of Vermont's health benefit exchange, including a proposed timeline for 2016. The Chief's recommendation shall include an analysis of whether the recommended course of action would be likely to minimize any negative effects on individuals and families enrolling in qualified health plans, the financial impacts of the transition, the ability of the registered carriers to accomplish the transition, and

the potential impacts of the transition on the State's health insurance regulatory framework.

(1)(A) If the Chief of Health Care Reform recommends requesting approval from the U.S. Department of Health and Human Services to allow Vermont to transition to an FSSBM, then on or before December 1, 2015, the Joint Fiscal Committee shall determine whether to concur with the recommendation. In determining whether to concur, the Joint Fiscal Committee shall consider whether the transition to an FSSBM would be likely to minimize any negative effects on individuals and families enrolling in qualified health plans, the financial impacts of the transition, the ability of the registered carriers to accomplish the transition, and the potential impacts of the transition on the State's health insurance regulatory framework. The Joint Fiscal Committee shall also consider relevant input offered by legislative committees of jurisdiction.

(B) If the Chief of Health Care Reform recommends requesting approval from the U.S. Department of Health and Human Services to allow Vermont to transition from a State-based exchange to an FSSBM and the Joint Fiscal Committee concurs with that recommendation, the Chief of Health Care Reform and the Commissioner of Vermont Health Access shall:

(i) prior to December 31, 2015, request that the U.S. Department of Health and Human Services begin the approval process with the Department of Vermont Health Access; and

(ii) on or before January 15, 2016, provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance the recommended statutory changes necessary to align with operating an FSSBM if approved by the U.S. Department of Health and Human Services.

(2) If the Chief of Health Care Reform either does not recommend that Vermont transition to an FSSBM or the Joint Fiscal Committee does not concur with the Chief's recommendation to transition to an FSSBM, the Chief of Health Care Reform shall submit information to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on or before January 15, 2016 regarding the advantages and disadvantages of alternative models and options for Vermont's health benefit exchange and the proposed statutory changes that would be necessary to accomplish them.

* * * Cigarette and Tobacco Taxes * * *

Sec. 30. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of ~~137.5~~ 142.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 30a. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except tobacco substitutes, which shall be taxed at a rate of 46 percent of the wholesale price, snuff, which shall be taxed at ~~\$2.29~~ \$2.38 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.29~~ \$2.38 per ounce or, if packaged for sale to a consumer in a

package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.75~~ \$2.85 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 30b. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such

snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2014~~ 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler; or a retailer who at 12:01 a.m. on July 1, ~~2014~~ 2015, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015,

and on which cigarette stamps have been affixed before July 1, ~~2014~~ 2015.

A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2014~~ 2015, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.13~~ \$0.10 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2014~~ 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Sec. 30c. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

* * *

(d) The tax imposed under this section shall be at the rate of ~~142.5~~ 154 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own

tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 30d. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except tobacco substitutes, which shall be taxed at a rate of 46 percent of the wholesale price, snuff, which shall be taxed at ~~\$2.38~~ \$2.57 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.38~~ \$2.57 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.85~~ \$3.08 per package, and cigars with a wholesale price greater than

\$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 30e. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2016, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2015~~ 2016, file a report to the Commissioner in such form as the Commissioner may

prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2015~~ 2016, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2015~~ 2016, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler; or a retailer who at 12:01 a.m. on July 1, ~~2015~~ 2016, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2016, and on which cigarette stamps have been affixed before July 1, ~~2015~~ 2016. A floor stock tax is also imposed on each Vermont cigarette stamp in the

possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2015~~ 2016, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.13~~ \$0.23 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, ~~2015~~ 2016, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2015~~ 2016, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2015~~ 2016, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

* * * Meals and Room Tax * * *

Sec. 30f. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

* * *

(10) "Taxable meal" means:

(A) Any food or beverage furnished within the State by a restaurant for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises.

(B) Where furnished by other than a restaurant, any nonprepackaged food or beverage furnished within the State and for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises. Fruits, vegetables, candy, flour, nuts, coffee beans, and similar unprepared grocery items sold self-serve for take-out from bulk containers are not subject to tax under this subdivision.

(C) Regardless where sold and whether or not prepackaged:

- (i) sandwiches of any kind except frozen;
- (ii) food or beverage furnished from a salad bar;
- (iii) heated food or beverage;
- (iv) food or beverage sold through a vending machine.

* * *

(19) "Vending machine" means a machine operated by coin, currency, credit card, slug, token, coupon, or similar device that dispenses food or beverages.

Sec. 30g. 32 V.S.A. § 9271 is amended to read:

§ 9271. LICENSES REQUIRED

Each operator prior to commencing business shall register with the Commissioner each place of business within the ~~state~~ State where he or she operates a hotel or sells taxable meals or alcoholic beverages; provided however, that an operator who sells taxable meals through a vending machine shall not be required to hold a license for each individual machine. Upon receipt of an application in such form and containing such information as the Commissioner may require for the proper administration of this chapter, the Commissioner shall issue without charge a license for each such place in such form as he or she may determine, attesting that such registration has been made. No person shall engage in serving taxable meals or alcoholic beverages or renting hotel rooms without the license provided in this section. The license shall be nonassignable and nontransferable and shall be surrendered to the Commissioner, if the business is sold or transferred or if the registrant ceases to do business at the place named.

* * * Sales Tax * * *

Sec. 30h. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages ~~or~~, tobacco, soft drinks, or candy.

* * *

(53) “Soft drink” means nonalcoholic beverages that contain natural or artificial sweeteners. “Soft drinks” do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.

(54) “Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no refrigeration.

* * * Nonresidential Education Property Tax Rate * * *

Sec. 30i. FISCAL YEAR 2016 NONRESIDENTIAL PROPERTY TAX

RATE

Notwithstanding any other provision of law, for fiscal year 2016 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(1) shall be reduced from the rate of \$1.59 to \$1.515.

Sec. 30j. ELECTRONIC CIGARETTES; REVENUE

Notwithstanding the provisions of 32 V.S.A. § 7823 and 33 V.S.A. § 1910d, the Department of Finance and Management shall determine the amount to be raised by the taxation of electronic cigarettes by this act in fiscal year 2016 and shall reserve that amount in the Tobacco Trust Fund established pursuant to 18 V.S.A. § 9502.

* * * Electronic Cigarettes * * *

Sec. 31a. 7 V.S.A. § 1003(d) is amended to read:

~~(d)(1) No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel~~ Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter in an area accessible only to sales personnel; or

(B) in a locked container that is not located on a sales counter.

(2) This subsection shall not apply to the following:

~~(1)(A)~~ A a display of tobacco products that is located in a commercial establishment in which by law no person younger than 18 years of age is permitted to enter at any time.;

~~(2)(B)~~ Cigarettes cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee.;

~~(3)(C)~~ Cigars cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that

the removal of these products from the humidor can be readily observed by that employee.

Sec. 31b. 18 V.S.A. § 1421 is amended to read:

§ 1421. SMOKING IN THE WORKPLACE; PROHIBITION

(a) The use of lighted tobacco products and tobacco substitutes is prohibited in any workplace.

(b)(1) As used in this subchapter, “workplace” means an enclosed structure where employees perform services for an employer, including restaurants, bars, and other establishments in which food or drinks, or both, are served. In the case of an employer who assigns employees to departments, divisions, or similar organizational units, “workplace” means the enclosed portion of a structure to which the employee is assigned.

(2) Except for schools, workplace does not include areas commonly open to the public or any portion of a structure that also serves as the employee’s or employer’s personal residence.

(3) For schools, workplace includes any enclosed location where instruction or other school-sponsored functions are occurring.

(4) For lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, workplace includes the sleeping quarters and adjoining rooms rented to guests.

(5) The prohibition on using tobacco substitutes in a workplace shall not apply to a business that does not sell food or beverages but is established for the purpose of providing a setting for patrons to purchase and use electronic cigarettes and related paraphernalia.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont ~~veterans' home~~ Veterans' Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

Sec. 31c. 18 V.S.A. § 1741 is amended to read:

§ 1741. DEFINITIONS

As used in this chapter:

* * *

(5) "Tobacco substitutes" shall have the same meaning as in 7 V.S.A. § 1001.

Sec. 31d. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

(a) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

(b) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited on the grounds of any hospital or secure residential recovery facility owned or operated by the State, including all enclosed places in the hospital or facility and the surrounding outdoor property.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont Veterans' Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

(d) Nothing in this chapter shall be construed to prohibit the use of tobacco substitutes in a business that does not sell food or beverages but is established

for the purpose of providing a setting for patrons to purchase and use electronic cigarettes and related paraphernalia.

Sec. 31e. 18 V.S.A. § 1743 is amended to read:

§ 1743. EXCEPTIONS

The restrictions in this chapter on possession of lighted tobacco products and use of tobacco substitutes do not apply to areas not commonly open to the public of owner-operated businesses with no employees.

Sec. 31f. 18 V.S.A. § 1745 is amended to read:

§ 1745. ENFORCEMENT

A proprietor, or the agent or employee of a proprietor, who observes a person in possession of lighted tobacco products or using tobacco substitutes in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products or cease using the tobacco substitutes. If the person persists in the possession of lighted tobacco products or use of tobacco substitutes, the proprietor, agent, or employee shall ask the person to leave the premises.

Sec. 31g. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING IN MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a fine of not more than \$100.00. No points shall be assessed for a violation of this section.

Sec. 31h. 32 V.S.A. § 7702(15) is amended to read:

(15) "Other tobacco products" means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner, including products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8); but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section.

* * * Repeal * * *

Sec. 32. REPEAL

12 V.S.A. chapter 215, subchapter 2 (presuit mediation) is repealed on July 1, 2018.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

(a) Secs. 1 and 2 (pharmacy benefit managers), 4a (report on observation status), 5 and 6 (reports), 15 (consumer information), 21 (Green Mountain Care Board duties), 21a (impact of rate-setting authority), 22 (VITL), 23 (referral registry), 24 (ambulance reimbursement), 27 (extension of presuit mediation), 28 (Blueprint for Health; reports), 28a (obesity data review), 29

(Green Mountain Care Board; payment reform), 29a–29d (Exchange alternatives and reports), 32 (repeal), and this section shall take effect on passage.

(b) Secs. 7 and 8 (Exchange cost-sharing subsidies), 9 (primary care provider increases), 10 (Blueprint increases), 11 (AHEC appropriation), 12 (Green Mountain Care Board appropriation), 13 (Green Mountain Care Board positions), 14 (Health Care Advocate), and 16–20 (primary care study) shall take effect on July 1, 2015.

(c) Secs. 25 and 26 (direct enrollment in Exchange plans) shall take effect on July 1, 2015 and shall apply beginning with the 2016 open enrollment period.

(d) Secs. 3 and 4 (notice of hospital observation status) shall take effect on December 1, 2015.

(e) Secs. 30 (cigarette tax), 30a (tobacco products tax), 30b (floor stock tax), 30f (meals and rooms tax definitions), 30g (meals and rooms tax licenses), 30h (sales tax definitions), 30i (property tax), 30j (electronic cigarette revenue), 31a–31g (electronic cigarettes), and 31h (tax on electronic cigarettes) shall take effect July 1, 2015. The Tax Department shall provide to vendors subject to the sales tax under this act outreach, education, and ongoing support to implement the tax effectively.

(f) Secs. 30c (cigarette tax), 30d (tobacco products tax), and 30e (floor stock tax) shall take effect July 1, 2016.

and that after passage the title of the bill be amended to read: “An act relating to health care”.