

Governor Shumlin's Health Care Reform Proposals

January 15, 2015

The health care reform package is contained in three bills in order to align with legislative jurisdictions: the budget bill, the miscellaneous tax bill, and a health care policy bill.

The total package reduces the cost shift by returning to businesses more than the money they contribute through a small payroll tax, all for the reduction of private premiums. The benefit for all Vermonters is that the combined state and federal dollars raised by this proposal will increase payments to providers, helping to increase access for Vermonters while making commercial insurance more affordable for individuals and businesses. It will also leverage cost shift reduction for businesses that offer insurance today by asking for a small contribution through the payroll tax from *all* businesses, including those that do not offer insurance.

Budget Items

- Make real progress on the Medicaid cost shift by:
 - Increasing Medicaid payments to health care providers by \$50 million annually (\$25M in FY16).
 - Funding increased Medicaid caseload by \$30 million annually.
 - Ensuring that the Green Mountain Care Board and Blue Cross Blue Shield will recover the savings created by these increased payments, reducing premiums by up to 5% from what they would have been.
- Invest further in Vermont's Blueprint for Health to build on the early success this effort has shown in bending the cost curve while ensuring high quality health care for Vermonters. We propose to do this by increasing funding by \$4.5 million in FY16 (\$9M annually) in order to increase both the community health team payments and the medical home payments for the first time since inception of the program in 2008.
- Provide \$5 million in FY16 (\$10M annually) to expand health home projects, which has supported programs such as the Hub and Spoke and Services and Supports at Home (SASH) in the past.
- Increase provider reimbursements to the designated agencies and other providers who have not seen an increase recently by about \$5.5 million in FY16 (\$11M annually).
- Invest in home health payments by \$1.25 million in FY16 (\$2.5M annually) and work with home health organizations to move to a value based purchasing model and strengthen our delivery system reform efforts.
- Provide staffing and financial support to the Green Mountain Care Board in order to ensure they are able to evolve into a mature regulatory agency and have the support to pursue an all payer waiver (\$1.1M annually).
- These investments are timed to have the maximum beneficial effect on 2016 insurance rates, which will be finalized in Summer 2015 by the GMCB.

Health Care Policy

- Help Vermonters pay for their out of pocket health care costs by doubling the state funding available for the Vermont Health Connect Cost Sharing Reductions (\$2M in FY16; \$4M annually).
- Strengthen the Green Mountain Care Board to make sure that the Board institutionalizes its early cost containment success by enhancing the Board's role as a central regulator of health care.
 - Give the GMCB authority to treat health care like the public good that it is and ensure that Vermont has an integrated, cost-effective health care system for the long run.
 - Provide the GMCB the ability to act where needed to open investigations into pressing issues and problems and give them the power to approve innovative payment and delivery models promoted by our Accountable Care Organizations, physicians, and clinics.
 - Ensure the GMCB can align health care technology investments with a more integrated, universal statewide system through budget and programmatic approval of Vermont Information Technology Leaders, VITL.
- Ensure an on-going dialogue about health care reform by ensuring the administration provides status reports during the interim to the Joint Committee on Health Care Reform.

Revenue

- To support these investments above, we propose a seven-tenths of a percent (.7%) payroll tax.
- Every dollar the state collects allows us to draw down \$1.10 of federal funds, more than doubling our money. In fiscal year 2016, this proposal would raise \$86 million - \$41 million in state funds matched with an additional \$45 million in federal dollars.
- Enhance information to Vermonters about the cost of their health care coverage by ensuring that all employers provide these costs on their employees W-2 forms.

Governor's Health Care Reform Bill Section by Section Summary

Green Mountain Care Board (GMCB)

Sections 1- 4: Gives the GMCB the authority to conduct investigations or hearings. Makes clear that the GMCB's authority does not supersede DFR's authority when regulating insurers. Outlines the hearing process, including notice provisions, pleadings, and appeal standard.

Section 5: Requires the GMCB to review and approve the connectivity criteria which ensures that health care provider's electronic medical records are compatible with the health information exchange and to review and approve VITL's core activities and budget.

Section 6: Requires the GMCB to investigate public utility models for health care reimbursement in Vermont by 1/1/16 and report to the House Committee on Health Care and the Senate Committee on Health and Welfare and the Governor with its findings and recommendations by 1/1/17.

Section 7: Requires the GMCB to establish provider payment amounts and methods that promote cost-containment and high-quality, evidence-based care by 1/1/17.

Vermont Information Technology Leaders (VITL)

Section 8: Specifies length of term for VITL board members and make-up of the board.

Section 9: Adds that the GMCB must approve of VITL's core activities before the Secretary of Administration enters into procurement grant agreements. Also adds that the Secretary of Administration can request DII to review VITL's technology for security, privacy, and other technical issues.

Waivers

Section 10: Requires AoA, AHS, and GMCB to provide status reports to the Joint Committee on Health Reform Oversight on any activities relating to the All-Payer Waiver or Medicaid Waivers.

Cost Sharing Financial Assistance for Individuals

Section 11: Increases cost sharing assistance for calendar year 2016 plans for individuals with incomes between:

- 200-250% FPL (family of 4 approx. \$48,000 to \$60,000) from 77% AV to a gold plan at 83% AV
- 250-300% FPL (family of 4 approx \$60,000 to \$72,000) from 73% AV to a silver+ plan at 79% AV

Extension of Medical Malpractice Reforms

Section 12: Extends mediation prior to filing a complaint of malpractice in the courts from February 1, 2015 to July 1, 2018 to allow for more time to evaluate reform.

* * * Green Mountain Care Board * * *

Sec. 1. 18 V.S.A. § 9374 is amended to read:

(a)(1) On July 1, 2011, the Green Mountain Care Board is created and shall consist of a chair and four members. The Chair and all of the members shall be State employees and shall be exempt from the State classified system. The Chair shall receive compensation equal to that of a Superior judge, and the compensation for the remaining members shall be two-thirds of the amount received by the Chair.

* * *

(h)(1) Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures, review hospital budgets, conduct proceedings authorized by 18 V.S.A. § 9374a-c, and for any other contracts authorized by the Board shall be borne as follows:

(A) 40 percent by the State from state monies;

(B) 15 percent by the hospitals;

(C) 15 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

(D) 15 percent by health insurance companies licensed under 8 V.S.A. chapter 101; and

(E) 15 percent by health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

~~(i) In addition to any other penalties and in order to enforce the provisions of this chapter and empower the Board to perform its duties, the Chair of the Board may issue subpoenas, examine persons, administer oaths, and require production of papers and records. Any subpoena or notice to produce may be served by registered or certified mail or in person by an agent of the Chair. Service by registered or certified mail shall be effective three business days after mailing. Any subpoena or notice to produce shall provide at least six business days' time from service within which to comply, except that the Chair may shorten the time for compliance for good cause shown. Any subpoena or notice to produce sent by registered or certified mail, postage prepaid, shall constitute service on the person to whom it is addressed. Each witness who~~

~~appears before the Chair under subpoena shall receive a fee and mileage as provided for witnesses in civil cases in Superior Courts; provided, however, any person subject to the Board's authority shall not be eligible to receive fees or mileage under this section. [Comment: moved to new 18 VSA 9374a]~~

~~(j) A person who fails or refuses to appear, to testify, or to produce papers or records for examination before the Chair upon properly being ordered to do so may be assessed an administrative penalty by the Chair of not more than \$2,000.00 for each day of noncompliance and proceeded against as provided in the Administrative Procedure Act, and the Chair may recommend to the appropriate licensing entity that the person's authority to do business be suspended for up to six months.— [Comment: moved to new 18 VSA 9374a]~~

Sec. 2. 18 V.S.A. 9374a is added to read:

9374a. General Powers

(a) The Board shall have the powers of a court of record in the determination and adjudication of all matters over which it is given jurisdiction. It may render judgments, make orders and decrees, and enforce the same by any suitable process issuable by courts in this state.

(b)(1) In addition to any other penalties and in order to enforce the provisions of this chapter and empower the Board to perform its duties, the Chair of the Board may issue subpoenas, examine persons, administer oaths, and require production of papers and records. Any subpoena or notice to produce may be served by registered or certified mail or in person by an agent of the Chair.

Service by registered or certified mail shall be effective three business days after mailing. Any subpoena or notice to produce shall provide at least six business days' time from service within which to comply, except that the Chair may shorten the time for compliance for good cause shown. Any subpoena or notice to produce sent by registered or certified mail, postage prepaid, shall constitute service on the person to whom it is addressed. Each witness who appears before the Chair under subpoena shall receive a fee and mileage as provided for witnesses in civil cases in Superior Courts; provided, however, any person subject to the Board's authority shall not be eligible to receive fees or mileage under this section.

(2) A person who fails or refuses to appear, to testify, or to produce papers or records for examination before the Chair upon properly being ordered to do so may be assessed an administrative penalty by the Chair of not more than \$2,000.00 for each day of noncompliance and proceeded against as provided in the Administrative Procedure Act, and the Chair may recommend to the appropriate licensing entity that the person's authority to do business be suspended for up to six months.

(c)(1) The Board may conduct an inquiry into the cost containment activities, delivery system reforms, payment methodologies, payment rates, or the administration, finances, or budget of a health insurer, accountable care organization, hospital, health care system, or other entity regulated by the Board under this title in order to further the purposes set forth in section 9372. Notwithstanding this authority to investigate, the Board may not supersede the

regulatory authority over entities regulated by the Department of Financial Regulation, including solvency. Information furnished under this section by an entity regulated by the Department of Financial Regulation shall be subject to 8 V.S.A. § 22, and shall be treated as though that information was furnished to the Board by the Department of Financial Regulation.

(2) A majority of the Board, which majority must include the Chair, may institute an inquiry under this subsection and may appoint a hearing officer or a single member of the board to act as a hearing officer.

(3)(A) A hearing officer may administer oaths in all inquiries and examinations, so far as the exercise of that power is properly incidental to the performance of his or her duty under this subsection.

(B) A hearing officer shall report his or her findings of fact in writing to the Board in the form of a proposal for decision. A copy shall be served upon the parties and an opportunity to file exceptions and present briefs and oral arguments shall be afforded consistent with section 811 of Title 3. A final order on such findings shall be rendered only by a majority of the Board.

(C) Upon written request to the Board at least five days prior to the proceeding by a majority of the parties, the Chair may appoint at least a majority of the Board to conduct the proceeding.

(D) In any inquiry or examination held in accordance with this subsection, the hearing officer shall permit intervention by any interested party that will, in the hearing officer's discretion, materially advance the proceeding. The burden is

on the party seeking to intervene to demonstrate that the party's participation will materially advance the proceeding. For purposes of this section, "interested party" status shall be available only to persons or organizations who demonstrate that they will be substantially and directly affected by the proceeding. Persons able to render material assistance to the Board by providing nonduplicative evidence relevant to the proceeding may be admitted in an amicus curiae capacity but shall not be considered parties.

(4) After conducting an inquiry as provided for in this subsection, the Board may enter such orders as necessary to further the purposes set forth in section 9372 in this subchapter. Notwithstanding this authority, the Board may not supersede the regulatory authority over entities regulated by the Department of Financial Regulation under Title 8, including solvency.

Sec. 3. 18 V.S.A. 9374b is added to read:

9374b. Service of process; notice of hearings; temporary restraining orders

(a) All process issued by the board shall state the time and place of return, in those cases where return is to be made to the board. Orders, notices and other process issued by the board shall be served personally, by first class mail, or by electronic means, except that the board may direct that service be made by registered or certified mail. If the whereabouts of a person are unknown, or if the number of respondents is so great that personal service or service by mail is impracticable, service may be made by publication.

(b) Except as provided in subsections (c), (d) and (e) of this section, the board shall give twelve days' notice of all hearings.

(c) A prehearing or procedural conference may be held upon any reasonable notice.

(d) An evidentiary hearing, once commenced upon proper notice, may be continued to a subsequent date upon any reasonable notice.

(e) Notwithstanding any other provision in this section, the board or a single member may grant temporary restraining orders in the manner provided by and subject to limitations prescribed by the Vermont Rules of Civil Procedure.

Sec. 4. 18 V.S.A. 9374c is added to read:

9374c. Pleadings; rules of practice; findings of fact

(a) The forms, pleadings, and rules of practice and procedure before the Board shall be prescribed by it.

(b) The Board's substantive decisions or orders in any proceeding authorized by 18 V.S.A. s 9374a shall be in writing and shall include findings of fact and conclusions of law, as appropriate. Upon appeal to the Supreme Court its findings of fact shall be accepted unless clearly erroneous.

Sec. 5. 18 V.S.A. 9375(b)(2) is amended to read:

(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.

(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 provided for in section 9352 of this title.

(C) Annually review and approve the core activities and budget, consistent with available funds, of Vermont Information Technology Leaders, which shall include establishing the interconnectivity of electronic medical records held by health care professionals and health care systems for the purpose of improving the quality and efficiency of health care to Vermonters. This review shall be according to a process established by the Board by rule pursuant to 3 V.S.A. chapter 25.

Sec. 6. PUBLIC UTILITY MODEL

(a) No later than January 1, 2016, the Green Mountain Care Board shall initiate an inquiry regarding whether the public good would be served by regulating health care reimbursement in Vermont as a public utility. The Board may authorize a hearing officer or a single Board member to conduct the inquiry as provided for in section 9374a of Title 18.

(b) The Board's inquiry shall include review of whether the public good would be served by designating a regulated entity as a public utility through a process similar to the certificate of public good or an order of appointment

conducted by the Public Service Board under 30 V.S.A. sections 209, 218, 231, and 249.

(c) No later than February 1, 2017, the Board shall report to the House Committee on Health Care, the Senate Committee on Health and Welfare, and the Governor with its findings and recommendations through the implementation of a public utility model for the regulation of health care reimbursement.

Sec. 7. PROVIDER RATE-SETTING

No later than January 1, 2017 and to the extent permitted by federal law, the Green Mountain Care Board shall establish the payment amounts and methods required by section 9376 of Title 18 for at least one sector of health care and shall continue to establish amounts and methods for additional health care sectors on an ongoing basis.

* * * Vermont Information Technology Leaders * * *

Sec. 8. 18 V.S.A. § 9352 is amended to read:

(a) Governance. ~~The General Assembly and the Governor shall each appoint one representative to the Vermont Information Technology Leaders, Inc. (VITL) board of directors.~~ The Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of nine members. The term of each member shall be three years, except that of the members first appointed, half shall serve a term of two years, and three years. The Board of Directors shall be comprised of the following:

(1) A representative appointed by the General Assembly;

(2) A representative appointed by the Governor;

(3) A representative of the business community;

(4) A consumer representative;

(5) A member of the Vermont Association of Hospitals and Health Systems;

(6) A member of the Vermont Medical Society;

(7) A practicing clinician licensed to practice medicine in Vermont; and

(8) Two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider.

* * *

(k) For attendance at meetings during adjournment of the General Assembly, the member appointed by the general assembly shall be entitled to per diem compensation and reimbursement of expenses pursuant to section 406 of this title for no more than six meetings.

Sec. 9. 18 V.S.A. 9352(c) is amended to read:

(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 approval of the core activities and budget by the Green

Mountain Care Board as provided for in chapter 220 of this Title, the secretary of administration or designee shall enter into procurement grant agreements with VITL pursuant to section 4089k of Title 8. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding sections 2222 and 2283b of Title 3, upon request of the Secretary, the Department of Information and Innovation shall provide a review of VITL's technology for security, privacy, and other such appropriate technical issues.

* * * WAIVERS* * *

Sec. 10. WAIVER APPLICATIONS; REPORTING

During the legislative interim, the Agency of Administration, the Secretary of Human Services and the Chair of the Green Mountain Care Board shall provide status reports to the Joint Committee on Health Reform Oversight on any activities relating to any waivers required by Sec. 17 of No 128 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 34a. of No. 171 of the Acts of 20122 Adj. Sess. (2012).

* * * Cost Sharing Financial Assistance for Individuals* * *

Sec. 11. 33 V.S.A. § 1812(b)(2) is amended to read:

(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.

* * * Extension of Medical Malpractice Reforms* * *

Sec. 12. Sec. 24d of No. 171 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. 24d. SUNSET

12 V.S.A. chapter 215, subchapter 2 shall be repealed on ~~February~~ July 1, 2015~~2018~~.

Sec. 13. REPEAL

Sections 52 and 53 (elimination of claims tax funding health information technology) of No. 73 of the Acts of 2013 is repealed July 1, 2015.

Sec. 14. EFFECTIVE DATES

(a) Sec. 12 (Sunset) of this act and this section shall take effect upon passage.

(b) All other sections shall take effect on July 1, 2015.