

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 386
3 entitled “An act relating to home health agency provider taxes” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 33 V.S.A. § 1951 is amended to read:

8 § 1951. DEFINITIONS

9 As used in this subchapter:

10 (1) “Assessment” means a tax levied on a health care provider pursuant
11 to this chapter.

12 (2)(A) “~~Core home~~ Home health ~~care and hospice~~ services” means
13 any of the following:

14 (i) those medically necessary, intermittent, skilled ~~nursing, home~~
15 ~~health aide, therapeutic, and personal care attendant services, provided~~
16 ~~exclusively in the home by home health agencies. Core home health services~~
17 ~~do not include private duty nursing, hospice, homemaker, or physician~~
18 ~~services, or services provided under early periodic screening, diagnosis, and~~
19 ~~treatment (EPSDT), traumatic brain injury (TBI), high technology programs,~~
20 ~~or services provided by a home for persons who are terminally ill as defined in~~
21 ~~subdivision 7102(3) of this title~~ home health services provided by Medicare-

1 certified home health agencies **that are of the type** covered under Title XVIII
2 (Medicare) or XIX (Medicaid) of the Social Security Act;

3 (ii) services covered under the adult and pediatric High
4 Technology Home Care programs **as of January 1, 2015;**

5 (iii) personal care, respite care, and companion care services
6 provided through the Choices for Care program contained within Vermont’s
7 Global Commitment to Health Section 1115 demonstration; **and**

8 (iv) hospice services; **and**
9 ~~(v) home health and hospice services covered under a health~~
10 ~~insurance or other health benefit plan offered by a health insurer, as~~
11 ~~defined in 18 V.S.A. § 9402.~~

12 (B) The term “core home health **and hospice** services” shall not
13 include any other service provided by a home health agency, including:

14 (i) private duty **nursing services;**

15 (ii) case management services, **except to the extent that such**
16 **services are performed in order to establish an individual’s eligibility for**
17 **services described in subdivision (A) of this subdivision (2);**

18 (iii) homemaker services;

19 (iv) ~~the Flexible Choices or Assistive Devices options under the~~
20 ~~Choices for Care program contained within Vermont’s Global~~
21 ~~Commitment to Health Section 1115 demonstration;~~

1 ~~(v)~~ adult day services;

2 (v) group-directed attendant care services;

3 (vi) primary care services;

4 (vii) nursing home room and board when a hospice patient is in a
5 nursing home; **and**

6 (viii) health clinics, including occupational health, travel, and flu
7 clinics.

8 **(C) The term “home health services” shall not include any**
9 **services provided by a home health agency under any other program or**
10 **initiative unless the services fall into one or more of the categories**
11 **described in subdivision (A) of this subdivision (2). Other programs and**
12 **initiatives include:**

13 **(i) the Flexible Choices or Assistive Devices options under the**
14 **Choices for Care program contained within Vermont’s Global**
15 **Commitment to Health Section 1115 demonstration;**

16 (ii) services provided to children under the early and periodic
17 screening, diagnostic, and treatment Medicaid benefit;

18 (iii) services provided pursuant to the Money Follows the Person
19 demonstration project;

20 (iv) services provided pursuant to the Traumatic Brain Injury
21 Program; **or and**

1 (v) maternal-child wellness services, including services provided
2 through the Nurse Family Partnership program.

3 * * *

4 (10) “Net ~~operating~~ patient revenues” means a provider’s gross charges
5 **related to patient care services** less any deductions for bad debts, charity
6 care, contractual allowances, and other payer discounts **as reported on its**
7 **audited financial statement.**

8 * * *

9 Sec. 2. 33 V.S.A. § 1955a is amended to read:

10 § 1955a. HOME HEALTH AGENCY ASSESSMENT

11 (a)(1) ~~Beginning October 1, 2011, each~~ Each home health agency’s
12 assessment shall be ~~19.30~~ 4.25 percent of its net ~~operating~~ patient revenues
13 from ~~core~~ **home health care and hospice** services, ~~excluding revenues for~~
14 ~~services provided under Title XVIII of the federal Social Security Act;~~
15 ~~provided, however, that each home health agency’s annual assessment shall be~~
16 ~~limited to no more than six percent of its annual net patient revenue~~ provided
17 exclusively in Vermont.

18 (2) **On or before May 1 of each year, each home health agency shall**
19 **provide to the Department a copy of its most recent audited financial**
20 **statement prepared in accordance with generally accepted accounting**
21 **principles.** The amount of the tax shall be determined by the Commissioner

1 based on the **home health net patient revenue attributable to home health**
2 **services reported on the** agency's **most recent audited** financial **statements**
3 **statement at the time of submission, a copy of which shall be provided on**
4 **or before May 1 of each year to the Department.**

5 (3) For providers who begin operations as a home health agency after
6 January 1, 2005, the tax shall be assessed as follows:

7 ~~(1)~~(A) Until such time as the home health agency submits audited
8 financial statements for its first full year of operation as a home health agency,
9 the Commissioner, in consultation with the home health agency, shall annually
10 estimate the amount of tax payable and shall prescribe a schedule for interim
11 payments.

12 ~~(2)~~(B) At such time as the full-year audited financial statement is filed,
13 the final assessment shall be determined, and the home health agency shall pay
14 any underpayment or the Department shall refund any overpayment. The
15 assessment for the State fiscal year in which a provider commences operations
16 as a home health agency shall be prorated for the proportion of the State fiscal
17 year in which the new home health agency was in operation.

18 * * *

19 Sec. 3. 2016 Acts and Resolves No. 134, Sec. 32 is amended to read:

1 Sec. 32. HOME HEALTH AGENCY ASSESSMENT FOR FISCAL
2 ~~YEARS YEAR~~ 2017 ~~AND~~ 2018

3 Notwithstanding any provision of 33 V.S.A. § 1955a(a) to the contrary, for
4 fiscal ~~years year~~ 2017 ~~and~~ 2018 only, the amount of the home health agency
5 assessment under 33 V.S.A. § 1955a for each home health agency shall be 3.63
6 percent of its annual net patient revenue.

7 **Sec. 4. TRANSITIONAL PROVISION FOR FISCAL YEAR 2018**

8 Notwithstanding any provision of 33 V.S.A. § 1955(a)(2) to the
9 contrary, for fiscal year 2018 only, the Commissioner of Vermont Health
10 Access may determine the amount of a home health agency’s provider tax
11 based on such documentation as the Commissioner deems acceptable.

12 Sec. 5. REPEAL

13 33 V.S.A. § 1955a is repealed on July 1, 2019.

14 Sec. 6. EFFECTIVE DATE

15 This act shall take effect on July 1, 2017 passage.

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17

18 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE