S.53

Subject:
Health; primary care; public financing

Statement of purpose ~~of bill as introduced~~: This bill proposes to establish a **framework within which the State of Vermont will begin building an integrated** system of universal, publicly financed primary care for all Vermonters ~~beginning in 2019~~ **to be fully implemented on or before January 1, 2022.**

An act relating to a universal, publicly financed primary care system

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. PURPOSE

It is the purpose of this act to establish the framework for a**n integrated** system of universal, publicly financed primary care. The **framework will enable the State to build a community-based** system **that** will ensure that all Vermonters have access to primary health care without facing financial barriers that would discourage them from seeking necessary care.

Sec. 2. FINDINGS

The General Assembly finds that:

(1) Access to health care services, and particularly to primary care services at the community level, is among the widely recognized social determinants of health; and yet, uninsured Vermonters and many insured Vermonters face increasing financial barriers to accessing primary care in their communities.

(~~1~~**2**) Universal access to primary care will advance the health of Vermonters by preventing disease and by addressing Vermonters'

health care problems before they become more serious and more costly. A large volume of research from throughout the United States concludes that increased access to primary care enhances the overall quality of care and improves patient outcomes.

(~~2~~**3**) Universal access to primary care will reduce system-wide health care spending. This conclusion is well documented. A study completed in accordance with 2016 Acts and Resolves No. 172, Sec. E.100.10 and submitted on November 23, 2016 found significant cost savings in a review of data from non-universal public and private primary care programs in the United States and around the world. One reason for these savings is that better access to primary care reduces the need for emergency room visits and hospital admissions.

(~~3~~**4**) The best primary care program is one that provides primary care for all residents without point-of-service patient cost-sharing or insurance deductibles for primary care services. The study completed in accordance with 2016 Acts and Resolves No. 172, Sec. E.100.10 found that primary care cost-sharing in many locales decreased health care utilization and affected individuals with low income disproportionately.

(4**5**) A universal primary care program will ~~support~~ **integrate with** existing ~~health~~ **primary** care ~~reform efforts~~ **infrastructure such as federally qualified community health centers, the clinics for the uninsured, Planned Parenthood clinics, and other community-based providers and collaboratives; a universal primary care program will also enhance initiatives**, such as the **3-4-50 campaign of the Department of Health, the hub and spoke model for addressing the opiod epidemic, the** Blueprint for Health and the all-payer model.

(~~5~~**6**) A universal primary care program can be structured in such a way as to create model working conditions for primary care physicians, who are currently overburdened with paperwork and administrative duties, and who are reimbursed at rates disproportionately lower than those of other specialties.

(~~7~~) The costs of a universal primary care program for Vermont were estimated in a study ordered by the General Assembly in 2015 Acts and Resolves No. 54, Secs. 16–19 and submitted on December 16, 2015.

(8) Pending the implementation of a comprehensive, publicly financed universal primary care system by the General Assembly, the investments in primary care within the framework established by this act will lead to improved population health, to an expanded network of community-based primary care providers, to a more robust primary care workforce, and to lower overall health care spending. These investments will also create a foundation for the publicly financed system of comprehensive universal primary care to be implemented by 2022.

Sec. 3. 33 V.S.A. chapter 18, subchapter 3 is added to read:

Subchapter 3. Universal Primary Care **Framework**

§ 1851. DEFINITIONS

As used in this section:

(1) "Private community-based nonprofit primary care clinic" means a health care facility owned and operated by a private 501(c)3 nonprofit organized for the purpose of providing primary care services to Vermonters and having a governing body that is representative of the community it serves. This definition includes, but is not limited to: federally qualified health centers, the clinics for the uninsured, and Planned Parenthood of Northern New England.

(2) "Public community-based primary care initiative" means any primary care public health program organized and implemented by a public entity, including the State of Vermont, counties, municipalities, and school districts.

(3) “Community collaborative” means any partnership between entities, either private nonprofit, or public, whether or not those entities are organized primarily for the delivery of health care, provided that the stated purpose of the partnership is to increase community-based access to primary care, and in the judgement of the Green Mountain Care Board, the collaborative is capable of fulfilling that purpose with or without the assistance of the Universal Primary Care Fund.

(~~1~~**4**) “Health care facility” shall have the same meaning as in 18 V.S.A. §9402.

(~~2~~**5**) “Health care provider” means a person, partnership, or corporation, including a health care facility, that is licensed, certified, or otherwise authorized by law to provide professional health care services in this State to an individual during that individual’s medical care, treatment, or confinement.

(6) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402. Health insurance plan includes any health benefit plan offered or administered by the State, or any subdivision or instrumentality of the State. *[to be included only if a primary care insurance mandate is desired]*

(~~3~~**7**) “Health service” means any treatment or procedure delivered by a health care professional to maintain an individual’s physical or mental health or to diagnose or treat an individual’s physical or mental condition or intellectual disability, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

(4**8**) “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. Primary care does not include dental services.

(~~5~~**9**) "Vermont resident" means an individual domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent. The Secretary of Human Services shall establish specific criteria for demonstrating residency.

§1852. UNIVERSAL PRIMARY CARE **GOALS**

(a) All Vermont residents ~~shall~~ **should** receive primary care services **in their communities** financed by the State of Vermont. **Until the General Assembly fully implements a comprehensive system of universal, publicly financed primary care, all Vermonters shall have access to primary care with patient cost-sharing requirements reduced as much as possible under the provisions of this chapter.**

(1) The following service categories shall be included in **the definition of** universal primary care **as used in this subchapter** when provided by a health care provider in one of the primary care specialty types described in subdivision (2) of this subsection:

(A) new or established patient office or other outpatient visit;

(B) initial new or established patient preventive medicine evaluation;

(C) other preventive services;

(D) patient office consultation;

(E) administration of vaccine;

(F) prolonged patient service or office or other outpatient service;

(G) prolonged physician service;

(H) initial or subsequent nursing facility visit;

(I) other nursing facility service;

(J) new or established patient home visit;

(K) new or established patient assisted living visit;

(L) other home or assisted living facility service;

(M) alcohol, smoking, or substance abuse screening or counseling;

(N) all-inclusive clinic visit at a federally qualified health center or rural health clinic; and

(O) ~~behavioral~~ **mental** health.

(2) Services provided by a licensed health care provider in one of the following primary care specialty types shall be included in **the definition of** universal primary care when providing services in one of the primary care service categories described in subdivision (1) of this subsection:

(A) family medicine physician;

(B) registered nurse;

(C) internal medicine physician;

(D) pediatrician;

(E) physician assistant or advanced practice registered nurse;

(F) psychiatrist;

(G) obstetrician/gynecologist;

(H) geriatrician;

(I) registered nurse certified in psychiatric or mental health nursing;

(J) social worker;

(K) psychologist;

(L) clinical mental health counselor; and

(M) alcohol and drug abuse counselor.

(b) For Vermont residents covered under Medicare, Medicare shall continue to be the primary payer for primary care services, but **on or before the State of Vermont's publicly financed universal primary care system is fully implemented** the State of Vermont shall cover any co-payment or deductible amounts required from a Medicare beneficiary for primary care services.

(c) For Vermont residents who are uninsured, and until the system of universal publicly financed primary care is implemented, a goal of the State of Vermont shall be to assist those Vermonters to enroll in any health coverage for which they may be eligible, and which may be affordable to them, and to subsidize or fully fund primary care coverage for those who are unable to enroll in existing insurance plans or public programs.

§1853. UNIVERSAL PRIMARY CARE FUND

(a) The Universal Primary Care Fund is established in the State Treasury as a special fund to be ~~the single source~~ **used only** to finance primary care **improvements and/or the comprehensive universal primary care system** for Vermont residents, **as a public good**.

(b) Into the Fund shall be deposited:

(1) transfers or appropriations from the General Fund, authorized by the General Assembly;

(2) revenue from any taxes established for the purpose of funding universal primary care in Vermont;

(3) if authorized by waivers from federal law, federal funds from Medicaid and from subsidies associated with the Vermont Health Benefit Exchange established in subchapter 1 of this chapter; ~~and~~

(4) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute or by rule**; and**

(5) the reinvestment portion of certified excess hospital revenue collected by the Green Mountain Care Board pursuant to section 7 of this title.

(c) The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the Fund and any remaining balance shall be retained in the Fund. The ~~Agency of Human Services~~ **Green Mountain Care Board** shall maintain records indicating the amount of money in the Fund at any time.

(d) All monies received by or generated to the Fund shall be used only for **the following eligible activities:**

(1) Grants or loans to private community-based nonprofit primary care clinics, or to public community-based primary care initiatives, or to community collaboratives all as defined herein, provided that the grants or loans enhance primary care access to uninsured and underinsured Vermonters; and provided that, in selecting activities to fund, the Green Mountain Care Board shall consider the amount of matching funds to be raised from

sources other than the Universal Primary Care Fund for each proposed grant or loan;

(2) **Operational studies, actuarial analyses, financing studies, economic modeling studies, and other research that may be necessary in order to implement a comprehensive and integrated system of universal primary care; and/or**

(3) payments to health care providers for primary care health services delivered to Vermont residents and to cover any co-payment or deductible amounts required from Medicare beneficiaries for primary care services.

§1854. **GOVERNANCE OF THE VERMONT PRIMARY CARE FUND**

(a) The Green Mountain Care Board shall be entrusted with making expenditures from the Vermont Primary Care Fund in accordance with this chapter.

(b) The Green Mountain Care Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including those general powers provided to a business corporation by Title 11A and including the power to:

(1) upon application from a private, nonprofit, community-based primary care clinic, or from a public community-based primary care initiative, or from a community collaborative, in a form prescribed by the Board, provide funding in the form of grants or loans for eligible activities;

(2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the purposes of this chapter;

(3) make payments to providers for primary health care services; and

(4) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter.

§1855. PAYMENTS TO PROVIDERS

(a) The Green Mountain Care Board shall establish, monitor, and oversee payments to health care providers for providing primary care health services to Vermont residents pursuant to this subchapter.

(b) For patients covered by Medicare, Medicare shall continue to be the primary payer for the patients' primary care services, but **on or before the State implements a comprehensive publicly financed system of universal primary care,** the State shall cover any co-payment or deductible amounts required from a Medicare beneficiary for primary care services.

Sec. 4. 8 V.S.A. §
4062(a) is amended to read:

(a)(1) No policy of health insurance or certificate under a policy filed by an insurer offering health insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital or medical service corporation, health maintenance organization, or a managed care organization and not exempted by subdivision 3368(a)(4) of this title shall be delivered or issued for delivery in this State, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until a copy of the form and of the rules for the classification of risks has been filed with the Department of Financial Regulation and a copy of the premium rates has been filed with the Green Mountain Care Board; and the Green Mountain Care Board has issued a decision approving, modifying, or disapproving the proposed rate.

* * *
(3) The Board shall determine whether a rate is affordable, promotes

quality care, promotes access to health care, protects insurer solvency, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State. In making this determination, the Board shall consider the analysis and opinion provided by the Department of Financial Regulation pursuant to subdivision (2)(B) of this subsection. The Board shall also consider the impact of the universal primary care program established in 33 V.S.A. chapter 18, subchapter 3 on the cost of health insurance.

Sec. 5. WAIVER; EXCHANGE SUBSIDIES

On or before ~~October 1, 2017~~ **December 31, 2019,** the Secretary of Administration or designee shall begin negotiations with the U.S. Department of Health and Human Services for a waiver under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, that would allow the State to fund in part the universal, publicly financed primary care proposal established in this act using federal funds that otherwise would have supported primary care for eligible Vermonters in health insurance plans offered through the Vermont Health Benefit Exchange.

Sec. 6. REVENUE PROPOSALS; JOINT FISCAL OFFICE

On or before ~~October 1, 2017~~ **December 31, 2019**, the Joint Fiscal Office shall propose 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, **and to the Green Mountain Care Board,** three tax financing mechanisms for universal primary care.

Sec. 7. EXCESS HOSPITAL REVENUE; REINVESTMENT CONTRIBUTION

(a) Each hospital that generated revenue in excess of the budget approved by the Green Mountain Care Board pursuant to 18 V.S.A.

chapter 221, subchapter 7 and the hospital's actual expenses for the most recently closed hospital fiscal year shall remit a portion of the excess revenue to the Green Mountain Care Board as provided in this section.

(b) On or before December 31st of each year, the Green Mountain Care Board shall certify the amount of excess revenue generated by each hospital, if any, for the most recently closed hospital fiscal year and notify the hospital in writing of the amount of its reinvestment contribution, which shall be not less than 50 percent of the amount of the excess revenue. The Board shall determine the amount of each hospital's reinvestment contribution based on the amount of the hospital's excess revenue, the hospital's budget and projected financial needs for the current fiscal year, the hospital's financial condition, and such other factors as the Board deems appropriate. If no hospital requests reconsideration of the amount of its excess revenue or reinvestment contribution as described in subsection (e) of this section, the contribution amount shall be considered final.

(c) Each hospital shall submit its reinvestment amount to the Board according to a payment schedule adopted by the Board. Any hospital that fails to make a payment to the Board on or before the date specified in the schedule shall be assessed an administrative penalty of not more than $5,000.00, provided that the Board may waive this late payment penalty for good cause shown by the hospital. The Board may also take into consideration any failure to make a timely payment pursuant to this section in its review of a hospital's future budgets pursuant to 18 V.S.A. chapter 221, subchapter 7.

(d) All payments from hospitals under this section, including late payment penalties, shall be deposited into the Universal Primary Care Fund established in section of this title.
e) A hospital may appeal the Board's determination of its excess revenue amount or reinvestment amount, or both, pursuant to 18 V.S.A. §9381.

(f) The Board may adopt rules pursuant to 3 V.S.A. chapter 25 as needed to implement this section.

Sec. ~~7~~**8**. OFFICE OF LEGISLATIVE COUNCIL

On or before ~~December 1,~~ ~~2017~~ **December 31, 2020,** the Office of Legislative Council shall provide to 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 draft legislation necessary to finance universal primary care, including:

(1) language enacting one or more of the tax financing mechanisms developed by the Joint Fiscal Office pursuant to Sec. 6 of this act and recommended by the Joint Fiscal Committee; and

(2) an appropriation ~~to occur early in fiscal year 2019~~ to ensure that funds will be available to pay health care providers for primary care services delivered ~~on and after January 1, 2019~~ **when the universal primary care system is implemented.**

Sec. 8. REPORT TO THE GENERAL ASSEMBLY

On or before January 1st each year, the Green Mountain Care Board shall submit a written report to the General Assembly listing all receipts and expenditures from the Universal Primary Care Fund and describing improvements attributable to the Fund made on behalf of Vermonters in accessing primary care.

On or before December 31, 2018, the Green Mountain Care Board shall submit to the General Assembly a written plan and timetable, which assumes funding commensurate with the estimates in the study ordered by the General Assembly in 2015 Acts and Resolves No. 54, Secs. 16–19 and submitted on December 16, 2015, adjusted for inflation and anticipated health care savings, and which describes how the State of Vermont will implement publicly funded universal primary care. The plan will include an implementation date that is no later than January 1, 2022.

Sec. 9. HEALTH INSURANCE PLAN REQUIREMENTS FOR PRIMARY CARE

8 VSA is amended to read:

Any health insurance plan offered in the State of Vermont shall cover primary care as defined in this act without patient co-pays, co-insurance, deductibles, or any other form of cost sharing borne by the enrollee. *[to be included only if a primary care insurance mandate is desired]*

Sec. ~~8~~ **10**. EFFECTIVE DATES

(a) Sec~~s~~. ~~3 (universal primary care) and~~ 4 (insurance rate review) shall take effect on January 1, ~~2019~~ **2020**.

(b) Sec. 9 (health insurance plan requirements for primary care) shall take effect on January 1, 2019.

(~~b~~**c**) The remaining sections shall take effect on passage.