

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill  
3 No. 960 entitled “An act relating to miscellaneous health care provisions”  
4 respectfully reports that it has considered the same and recommends that the  
5 Senate propose to the House that the bill be amended by striking out all after  
6 the enacting clause and inserting in lieu thereof the following:

7 \* \* \* Mental Health \* \* \*

8 Sec. 1. 18 V.S.A. § 9375 is amended to read:

9 § 9375. DUTIES

10 (a) The Board shall execute its duties consistent with the principles  
11 expressed in section 9371 of this title.

12 (b) The Board shall have the following duties:

13 \* \* \*

14 (15) ~~Collect and review data from each psychiatric hospital licensed~~  
15 ~~pursuant to chapter 43 of this title, which may include data regarding a~~  
16 ~~psychiatric hospital’s scope of services, volume, utilization, discharges, payer~~  
17 ~~mix, quality, coordination with other aspects of the health care system, and~~  
18 ~~financial condition. The Board’s processes shall be appropriate to psychiatric~~  
19 ~~hospitals’ scale and their role in Vermont’s health care system, and the Board~~  
20 ~~shall consider ways in which psychiatric hospitals can be integrated into~~  
21 ~~systemwide payment and delivery system reform.~~

1 Collect and review data from each community mental health and  
2 developmental disability agency designated by the Commissioner of Mental  
3 Health or of Disabilities, Aging, and Independent Living pursuant to chapter  
4 207 of this title, which may include data regarding a designated or specialized  
5 service agency’s scope of services, volume, utilization, payer mix, quality,  
6 coordination with other aspects of the health care system, and financial  
7 condition, including solvency. The Board’s processes shall be appropriate to  
8 the designated and specialized service agencies’ scale and their role in  
9 Vermont’s health care system, and the Board shall consider ways in which the  
10 designated and specialized service agencies can be integrated fully into  
11 systemwide payment and delivery system reform.

12 \* \* \*

13 Sec. 2. 18 V.S.A. § 9451 is amended to read:

14 § 9451. DEFINITIONS

15 As used in this subchapter:

16 (1) “Hospital” means a ~~general~~ hospital licensed under chapter 43 of this  
17 title, except a hospital that is conducted, maintained, or operated by the State  
18 of Vermont.

19 \* \* \*

1       Sec. 3. HOSPITAL BUDGET REVIEW; TRANSITIONAL PROVISIONS

2           (a) For any hospital whose budget newly comes under Green Mountain  
3       Care Board review as a result of the amendments to 18 V.S.A. § 9451 made by  
4       Sec. 2 of this act, the Board may increase the scope of the budget review  
5       process set forth in 18 V.S.A. chapter 221, subchapter 7 for the hospital  
6       gradually, provided the Board conducts a full review of the hospital’s proposed  
7       budget not later than the budget for hospital fiscal year 2024. In developing its  
8       process for transitioning to a full review of the hospital’s budget, the Board  
9       shall collaborate with the hospital and with the Agency of Human Services to  
10       prevent duplication of efforts and of reporting requirements. The Board and the  
11       Agency shall jointly determine which documents submitted by the hospital to  
12       the Agency are appropriate for the Agency to share with the Board.

13           (b) In determining whether and to what extent to exercise discretion in the  
14       scope of its budget review for a hospital new to the Board’s hospital budget  
15       review process, the Board shall consider:

16           (1) any existing fiscal oversight of the hospital by the Agency of Human  
17       Services, including any memoranda of understanding between the hospital and  
18       the Agency; and

19           (2) the fiscal pressures on the hospital as a result of the COVID-19  
20       pandemic.

1       Sec. 4. MENTAL HEALTH INTEGRATION COUNCIL; REPORT

2           (a) Creation. There is created the Mental Health Integration Council for the  
3       purpose of helping to ensure that all sectors of the health care system actively  
4       participate in the State’s principles for mental health integration established  
5       pursuant to 18 V.S.A. § 7251(4) and (8) and as envisioned in the Department  
6       of Mental Health’s 2020 report “Vision 2030: A 10-Year Plan for an Integrated  
7       and Holistic System of Care.”

8           (b) Membership.

9           (1) The Council shall be composed of the following members:

10           (A) the Commissioner of Mental Health or designee;

11           (B) the Commissioner of Health or designee;

12           (C) the Commissioner of Vermont Health Access or designee;

13           (D) the Commissioner for Children and Families or designee;

14           (E) the Commissioner of Corrections or designee;

15           (F) the Commissioner of Disabilities, Aging, and Independent Living  
16       or designee;

17           (G) the Commissioner of Financial Regulation or designee;

18           (H) the Director of Health Care Reform or designee;

19           (I) the Executive Director of the Green Mountain Care Board or  
20       designee;

21           (J) the Secretary of Education or designee;

1           (K) a representative, appointed by the Vermont Medical Society;

2           (L) a representative, appointed by the Vermont Association for

3 Hospitals and Health Systems;

4           (M) a representative, appointed by Vermont Care Partners;

5           (N) a representative, appointed by the Vermont Association of

6 Mental Health and Addiction Recovery;

7           (O) a representative, appointed by Bi-State Primary Care;

8           (P) a representative, appointed by the University of Vermont Medical

9 School;

10          (Q) the Chief Executive Officer of OneCare Vermont or designee;

11          (R) the Health Care Advocate established pursuant to 18 V.S.A.

12 § 9602;

13          (S) the Mental Health Care Ombudsman established pursuant to

14 18 V.S.A. § 7259;

15          (T) a representative, appointed by the insurance plan with the largest

16 number of covered lives in Vermont;

17          (U) two persons who have received mental health services in

18 Vermont, appointed by Vermont Psychiatric Survivors, including one person

19 who has delivered peer services;

1           (V) one family member of a person who has received mental health  
2           services, appointed by the Vermont chapter of National Alliance on Mental  
3           Illness; and

4           (W) one family member of a child who has received mental health  
5           services, appointed by the Vermont Federation of Families for Children’s  
6           Mental Health.

7           (2) The Council may create subcommittees comprising the Council’s  
8           members for the purpose of carrying out the Council’s charge.

9           (c) Powers and duties. The Council shall address the integration of mental  
10          health in the health care system, including:

11           (1) identifying obstacles to the full integration of mental health into a  
12          holistic health care system and identifying means of overcoming those barriers;

13           (2) helping to ensure the implementation of existing law to establish full  
14          integration within each member of the Council’s area of expertise;

15           (3) establishing commitments from non-state entities to adopt practices  
16          and implementation tools that further integration;

17           (4) proposing legislation where current statute is either inadequate to  
18          achieve full integration or where it creates barriers to achieving the principles  
19          of integration; and

20           (5) fulfilling any other duties the Council deems necessary to achieve its  
21          objectives.

1        (d) Assistance. The Council shall have the administrative, technical, and  
2        legal assistance of Department of Mental Health.

3        (e) Report.

4            (1) On or before December 15, 2021, the Commissioners of Mental  
5        Health and of Health shall report on the Council's progress to the Joint Health  
6        Reform Oversight Committee.

7            (2) On or before January 15, 2023, the Council shall submit a final  
8        written report to the House Committee on Health Care and to the Senate  
9        Committee on Health and Welfare with its findings and any recommendations  
10       for legislative action, including a recommendation as to whether the term of  
11       the Council should be extended.

12       (f) Meetings.

13           (1) The Commissioner of Mental Health shall call the first meeting of  
14       the Council.

15           (2) The Commissioner of Mental Health shall serve as chair. The  
16       Commissioner of Health shall serve as vice chair.

17           (3) The Council shall meet every other month between October 1, 2020  
18       and January 1, 2023.

19           (4) The Council shall cease to exist on July 30, 2023.

20       (g) Compensation and reimbursement. Members of the Council shall be  
21       entitled to per diem compensation and reimbursement of expenses as permitted

1 under 32 V.S.A. § 1010 for not more than six meetings annually. These  
2 payments shall be made from monies appropriated to the Department of  
3 Mental Health.

4 Sec. 5. BRATTLEBORO RETREAT; CONDITIONS OF STATE FUNDING

5 (a) Findings. In recognition of the significant need within Vermont’s  
6 health care system for inpatient psychiatric capacity, the General Assembly has  
7 made significant investments in capital funds and in rate adjustments to assist  
8 the Brattleboro Retreat in its financial sustainability. The General Assembly  
9 has a significant interest in the quality of care provided at the Brattleboro  
10 Retreat, which provides 100 percent of the State’s inpatient psychiatric care for  
11 children and youth, and more than half of the adult inpatient care, of which  
12 approximately 50 percent is paid for with State funding.

13 (b) Conditions. As a condition of further State funding, the General  
14 Assembly requires that the following quality oversight measures be  
15 implemented by the Brattleboro Retreat under the oversight of the Department  
16 of Mental Health:

17 (1) allow the existing mental health patient representative under contract  
18 with the Department pursuant to 18 V.S.A. § 7253(1)(J) to have full access to  
19 inpatient units to ensure that the mental health patient representative is  
20 available to individuals who are not in the custody of the Commissioner;



1           (2) in addition to existing policies regarding the provision of certificates  
2           of need for emergency involuntary procedures, provide to the Department  
3           deidentified certificates of need for emergency involuntary procedures used on  
4           individuals who are not in the custody of the Commissioner; and

5           (3) ensure that the mental health patient representative be a regular  
6           presenter at the Brattleboro Retreat’s employee orientation programming.

7           (c)(1) Patient experience and quality of care. To support proactive,  
8           continuous quality and practice improvement and to ensure timely access to  
9           high-quality patient care, the Department and the Brattleboro Retreat shall:

10           (A) to the extent feasible by the Department, meet jointly each month  
11           with the mental health patient representative contracted pursuant to 18 V.S.A.  
12           § 7253(1)(J) and the mental health care ombudsman established pursuant to  
13           18 V.S.A. § 7259 to review patient experiences of care; and

14           (B) identify clinical teams within the Department and the Brattleboro  
15           Retreat to meet monthly for discussions on quality issues, including service  
16           delivery, clinical practices, practice improvement and training, case review,  
17           admission and discharge coordination, and other patient care and safety topics.

18           (2) On or before February 1, 2021, the Department shall report to the  
19           House Committee on Health Care and to the Senate Committee on Health and  
20           Welfare regarding patient experiences and quality of care at the Brattleboro  
21           Retreat.

1           (d)(1) On or before October 1, 2020, as part of the reporting requirements  
2           of the Sustainability Report between the Agency of Human Services and the  
3           Brattleboro Retreat , the Agency and the Brattleboro Retreat shall submit an  
4           interim report to the Joint Fiscal Committee, and to the Chairs of the Senate  
5           Committee on Health and Welfare and the House Committee on Health Care  
6           describing the steps that the Brattleboro Retreat is taking to improve  
7           communication and relations with its employees.

8           (2) On or before February 1, 2021, as part of the reporting requirements  
9           of the Sustainability Report between the Agency of Human Services and the  
10           Brattleboro Retreat, the Agency and the Brattleboro Retreat shall submit a final  
11           report to the Senate Committee on Health and Welfare and to the House  
12           Committee on Health Care describing the steps that the Brattleboro Retreat is  
13           taking to improve communication and relations with its employees, the  
14           Brattleboro Retreat’s assessment of the effectiveness of those efforts, and how  
15           the Brattleboro Retreat plans to manage future communications and relations  
16           with its employees.

17   \* \* \* VPharm Coverage Expansion \* \* \*

18           Sec. 6. 33 V.S.A. § 2073 is amended to read:

19           § 2073. VPHARM ASSISTANCE PROGRAM

20           (a) ~~Effective January 1, 2006, the~~ The VPharm program is established as a  
21           State pharmaceutical assistance program to provide supplemental

1 pharmaceutical coverage to Medicare beneficiaries. The supplemental  
2 coverage under subsection (c) of this section shall provide ~~only~~ the same  
3 pharmaceutical coverage as the Medicaid program to enrolled individuals  
4 whose income is not greater than ~~150~~ 225 percent of the federal poverty  
5 guidelines ~~and only coverage for maintenance drugs for enrolled individuals~~  
6 ~~whose income is greater than 150 percent and no greater than 225 percent of~~  
7 ~~the federal poverty guidelines.~~

8 (b) Any individual with income ~~no~~ not greater than 225 percent of the  
9 federal poverty guidelines participating in Medicare Part D, having secured the  
10 low income subsidy if the individual is eligible and meeting the general  
11 eligibility requirements established in section 2072 of this title, shall be  
12 eligible for VPharm.

13 \* \* \*

14 Sec. 7. SUPPLEMENTAL VPHARM COVERAGE; GLOBAL  
15 COMMITMENT WAIVER RENEWAL; RULEMAKING

16 (a) When Vermont next seeks changes to its Global Commitment to Health  
17 Section 1115 Medicaid demonstration waiver, the Agency of Human Services  
18 shall request approval from the Centers for Medicare and Medicaid Services to  
19 include an expansion of the VPharm coverage for Vermont Medicare  
20 beneficiaries with income between 150 and 225 percent of the federal poverty

1 level (FPL) to be the same as the pharmaceutical coverage under the Medicaid  
2 program.

3 (b) Within 30 days following approval of the VPharm coverage expansion  
4 by the Centers for Medicare and Medicaid Services, the Agency of Human  
5 Services shall commence the rulemaking process in accordance with 3 V.S.A.  
6 chapter 25 to amend its rules accordingly.

7 \* \* \* Prior Authorization \* \* \*

8 Sec. 8. 18 V.S.A. § 9418b is amended to read:

9 § 9418b. PRIOR AUTHORIZATION

10 \* \* \*

11 (h)(1) A health plan shall review the list of medical procedures and medical  
12 tests for which it requires prior authorization at least annually and shall  
13 eliminate the prior authorization requirements for those procedures and tests  
14 for which such a requirement is no longer justified or for which requests are  
15 routinely approved with such frequency as to demonstrate that the prior  
16 authorization requirement does not promote health care quality or reduce  
17 health care spending to a degree sufficient to justify the administrative costs to  
18 the plan.

19 (2) A health plan shall attest to the Department of Financial Regulation  
20 and the Green Mountain Care Board annually on or before September 15 that it

1 has completed the review and appropriate elimination of prior authorization  
2 requirements as required by subdivision (1) of this subsection.

3 Sec. 9. PRIOR AUTHORIZATION; ELECTRONIC HEALTH RECORDS;  
4 REPORT

5 On or before January 15, 2022, the Department of Financial Regulation, in  
6 consultation with health insurers and health care provider associations, shall  
7 report to the House Committee on Health Care, the Senate Committees on  
8 Health and Welfare and on Finance, and the Green Mountain Care Board  
9 opportunities to increase the use of real-time decision support tools embedded  
10 in electronic health records to complete prior authorization requests for  
11 imaging and pharmacy services, including options that minimize cost for both  
12 health care providers and health insurers.

13 Sec. 10. PRIOR AUTHORIZATION; ALL-PAYER ACO MODEL; REPORT

14 The Green Mountain Care Board, in consultation with the Department of  
15 Vermont Health Access, certified accountable care organizations, payers  
16 participating in the All-Payer ACO Model, health care providers, and other  
17 interested stakeholders, shall evaluate opportunities for and obstacles to  
18 aligning and reducing prior authorization requirements under the All-Payer  
19 ACO Model as an incentive to increase scale, as well as potential opportunities  
20 to waive additional Medicare administrative requirements in the future. On or  
21 before January 15, 2022, the Board shall submit the results of its evaluation to

1 the House Committee on Health Care and the Senate Committees on Health  
2 and Welfare and on Finance.

3 Sec. 11. PRIOR AUTHORIZATION; GOLD CARDING; PILOT  
4 PROGRAM; REPORTS

5 (a) On or before January 15, 2022, each health insurer with more than  
6 1,000 covered lives in this State for major medical health insurance shall  
7 implement a pilot program that automatically exempts from or streamlines  
8 certain prior authorization requirements for a subset of participating health care  
9 providers, some of whom shall be primary care providers.

10 (b) Each insurer shall make available electronically, including on a publicly  
11 available website, details about its prior authorization exemption or  
12 streamlining program, including:

13 (1) the medical procedures or tests that are exempt from or have  
14 streamlined prior authorization requirements for providers who qualify for the  
15 program;

16 (2) the criteria for a health care provider to qualify for the program;

17 (3) the number of health care providers who are eligible for the program,  
18 including their specialties and the percentage who are primary care providers;  
19 and

20 (4) whom to contact for questions about the program or about  
21 determining a health care provider's eligibility for the program.

1        (c) On or before January 15, 2023, each health insurer required to  
2        implement a prior authorization pilot program under this section shall report to  
3        the House Committee on Health Care, the Senate Committees on Health and  
4        Welfare and on Finance, and the Green Mountain Care Board:

5            (1) the results of the pilot program, including an analysis of the costs  
6        and savings;

7            (2) prospects for the health insurer continuing or expanding the  
8        program;

9            (3) feedback the health insurer received about the program from the  
10       health care provider community; and

11           (4) an assessment of the administrative costs to the health insurer of  
12       administering and implementing prior authorization requirements.

13        Sec. 12. PRIOR AUTHORIZATION; PROVIDER EXEMPTIONS; REPORT

14        On or before September 30, 2021, the Department of Vermont Health  
15        Access shall provide findings and recommendations to the House Committee  
16        on Health Care, the Senate Committees on Health and Welfare and on Finance,  
17        and the Green Mountain Care Board regarding clinical prior authorization  
18        requirements in the Vermont Medicaid program, including:

19           (1) a description and evaluation of the outcomes of the prior  
20        authorization waiver pilot program for Medicaid beneficiaries attributed to the  
21        Vermont Medicaid Next Generation ACO Model;

- 1           (2)(A) for each service for which Vermont Medicaid requires prior  
2 authorization:
- 3           (i) the denial rate for prior authorization requests; and  
4           (ii) the potential for harm in the absence of a prior authorization  
5 requirement;
- 6           (B) based on the information provided pursuant to subdivision (A) of  
7 this subdivision (2), the services for which the Department would consider:
- 8           (i) waiving the prior authorization requirement; and  
9           (ii) exempting from prior authorization requirements those health  
10 care professionals whose prior authorization requests are routinely granted;
- 11           (3) the results of the Department’s current efforts to engage with health  
12 care providers and Medicaid beneficiaries to determine the burdens and  
13 consequences of the Medicaid prior authorization requirements and the  
14 providers’ and beneficiaries’ recommendations for modifications to those  
15 requirements;
- 16           (4) the potential to implement systems that would streamline prior  
17 authorization processes for the services for which it would be appropriate, with  
18 a focus on reducing the burdens on providers, patients, and the Department;
- 19           (5) which State and federal approvals would be needed in order to make  
20 proposed changes to the Medicaid prior authorization requirements; and







1 support children and families who receive benefits and services through the  
2 Department for Children and Families, and allow for continuation of  
3 operations with a reduced workforce and with flexible staffing arrangements  
4 that are responsive to evolving needs, to the extent such waivers or variances  
5 are permitted under federal law:

- 6 (1) Hospital Licensing Rule;
- 7 (2) Hospital Reporting Rule;
- 8 (3) Nursing Home Licensing and Operating Rule;
- 9 (4) Home Health Agency Designation and Operation Regulations;
- 10 (5) Residential Care Home Licensing Regulations;
- 11 (6) Assisted Living Residence Licensing Regulations;
- 12 (7) Home for the Terminally Ill Licensing Regulations;
- 13 (8) Standards for Adult Day Services;
- 14 (9) Therapeutic Community Residences Licensing Regulations;
- 15 (10) Choices for Care High/Highest Manual;
- 16 (11) Designated and Specialized Service Agency designation and  
17 provider rules;
- 18 (12) Child Care Licensing Regulations;
- 19 (13) Public Assistance Program Regulations;
- 20 (14) Foster Care and Residential Program Regulations; and



1           Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF  
2                                   FINANCIAL REGULATION; EMERGENCY RULEMAKING

3           It is the intent of the General Assembly to increase Vermonters’ access to  
4 medically necessary health care services during and after a declared state of  
5 emergency in Vermont as a result of COVID-19. ~~During such a declared state~~  
6 ~~of emergency, the~~ Until July 1, 2021, and notwithstanding any provision of 3  
7 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall  
8 consider adopting, and shall have the authority to adopt, emergency rules to  
9 address the following ~~for the duration of the state of emergency~~ through June  
10 30, 2021:

11           (1) expanding health insurance coverage for, and waiving or limiting  
12 cost-sharing requirements directly related to, COVID-19 diagnosis, treatment,  
13 and prevention;

14           (2) modifying or suspending health insurance plan deductible  
15 requirements for all prescription drugs, except to the extent that such an action  
16 would disqualify a high-deductible health plan from eligibility for a health  
17 savings account pursuant to 26 U.S.C. § 223; and

18           (3) expanding patients’ access to and providers’ reimbursement for  
19 health care services, including preventive services, consultation services, and  
20 services to new patients, delivered remotely through telehealth, audio-only  
21 telephone, and brief telecommunication services.

1           Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;  
2                           EARLY REFILLS

3           (a) As used in this section, “health insurance plan” means any health  
4 insurance policy or health benefit plan offered by a health insurer, as defined in  
5 18 V.S.A. § 9402. The term does not include policies or plans providing  
6 coverage for a specified disease or other limited benefit coverage.

7           (b) ~~During a declared state of emergency in Vermont as a result of COVID-~~  
8 ~~19~~ Through June 30, 2021, all health insurance plans and Vermont Medicaid  
9 shall allow their members to refill prescriptions for chronic maintenance  
10 medications early to enable the members to maintain a 30-day supply of each  
11 prescribed maintenance medication at home.

12           (c) As used in this section, “maintenance medication” means a prescription  
13 drug taken on a regular basis over an extended period of time to treat a chronic  
14 or long-term condition. The term does not include a regulated drug, as defined  
15 in 18 V.S.A. § 4201.

16           Sec. 10. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF  
17                           PRESCRIPTION FOR MAINTENANCE MEDICATION

18           (a) ~~During a declared state of emergency in Vermont as a result of COVID-~~  
19 ~~19~~ Through June 30, 2021, a pharmacist may extend a previous prescription  
20 for a maintenance medication for which the patient has no refills remaining or

1 for which the authorization for refills has recently expired if it is not feasible to  
2 obtain a new prescription or refill authorization from the prescriber.

3 (b) A pharmacist who extends a prescription for a maintenance medication  
4 pursuant to this section shall take all reasonable measures to notify the  
5 prescriber of the prescription extension in a timely manner.

6 (c) As used in this section, “maintenance medication” means a prescription  
7 drug taken on a regular basis over an extended period of time to treat a chronic  
8 or long-term condition. The term does not include a regulated drug, as defined  
9 in 18 V.S.A. § 4201.

10 Sec. 11. PHARMACISTS; CLINICAL PHARMACY; THERAPEUTIC  
11 SUBSTITUTION DUE TO LACK OF AVAILABILITY

12 (a) ~~During a declared state of emergency in Vermont as a result of COVID-~~  
13 ~~19~~ Through March 31, 2021, a pharmacist may, with the informed consent of  
14 the patient, substitute an available drug or insulin product for an unavailable  
15 prescribed drug or insulin product in the same therapeutic class if the available  
16 drug or insulin product would, in the clinical judgment of the pharmacist, have  
17 substantially equivalent therapeutic effect even though it is not a therapeutic  
18 equivalent.

19 (b) As soon as reasonably possible after substituting a drug or insulin  
20 product pursuant to subsection (a) of this section, the pharmacist shall notify

1 the prescribing clinician of the drug or insulin product, dose, and quantity  
2 actually dispensed to the patient.

3 Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

4 ~~During a declared state of emergency in Vermont as a result of COVID-19~~  
5 Through March 31, 2021, to the extent permitted under federal law, a health  
6 care professional authorized to prescribe buprenorphine for treatment of  
7 substance use disorder may authorize renewal of a patient’s existing  
8 buprenorphine prescription without requiring an office visit.

9 Sec. 13. 24-HOUR FACILITIES AND PROGRAMS; BED-HOLD DAYS

10 ~~During a declared state of emergency in Vermont as a result of COVID-19~~  
11 Through March 31, 2021, to the extent permitted under federal law, the  
12 Agency of Human Services may reimburse Medicaid-funded long-term care  
13 facilities and other programs providing 24-hour per day services for their bed-  
14 hold days.

15 \* \* \* Regulation of Professions \* \* \*

16 \* \* \*

17 Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
18 MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE  
19 PROFESSIONALS

20 (a) Notwithstanding any provision of Vermont’s professional licensure  
21 statutes or rules to the contrary, ~~during a declared state of emergency in~~



1 ~~Vermont as a result of COVID-19~~ through March 31, 2021, a health care  
2 professional, including a mental health professional, who holds a valid license,  
3 certificate, or registration to provide health care services in any other U.S.  
4 jurisdiction shall be deemed to be licensed, certified, or registered to provide  
5 health care services, including mental health services, to a patient located in  
6 Vermont using telehealth or as part of the staff of a licensed facility, provided  
7 the health care professional:

8 (1) is licensed, certified, or registered in good standing in the other U.S.  
9 jurisdiction or jurisdictions in which the health care professional holds a  
10 license, certificate, or registration;

11 (2) is not subject to any professional disciplinary proceedings in any  
12 other U.S. jurisdiction; and

13 (3) is not affirmatively barred from practice in Vermont for reasons of  
14 fraud or abuse, patient care, or public safety.

15 (b) A health care professional who plans to provide health care services in  
16 Vermont as part of the staff of a licensed facility shall submit or have  
17 submitted on the individual's behalf the individual's name, contact  
18 information, and the location or locations at which the individual will be  
19 practicing to:

20 (1) the Board of Medical Practice for medical doctors, physician  
21 assistants, and podiatrists; or

1           (2) the Office of Professional Regulation for all other health care  
2 professions.

3           (c) A health care professional who delivers health care services in Vermont  
4 pursuant to subsection (a) of this section shall be subject to the imputed  
5 jurisdiction of the Board of Medical Practice or the Office of Professional  
6 Regulation, as applicable based on the health care professional’s profession, in  
7 accordance with Sec. 19 of this act.

8           (d) This section shall remain in effect ~~until the termination of the declared~~  
9 ~~state of emergency in Vermont as a result of COVID-19 and~~ through March  
10 31, 2021, provided the health care professional remains licensed, certified, or  
11 registered in good standing.

12           Sec. 18. RETIRED HEALTH CARE PROFESSIONALS; BOARD OF  
13                           MEDICAL PRACTICE; OFFICE OF PROFESSIONAL  
14                           REGULATION

15           (a)(1) ~~During a declared state of emergency in Vermont as a result of~~  
16 ~~COVID-19~~ Through March 31, 2021, a former health care professional,  
17 including a mental health professional, who retired not more than three years  
18 earlier with the individual’s Vermont license, certificate, or registration in  
19 good standing may provide health care services, including mental health  
20 services, to a patient located in Vermont using telehealth or as part of the staff  
21 of a licensed facility after submitting, or having submitted on the individual’s

1       behalf, to the Board of Medical Practice or Office of Professional Regulation,  
2       as applicable, the individual's name, contact information, and the location or  
3       locations at which the individual will be practicing.

4             (2) A former health care professional who returns to the Vermont health  
5       care workforce pursuant to this subsection shall be subject to the regulatory  
6       jurisdiction of the Board of Medical Practice or the Office of Professional  
7       Regulation, as applicable.

8             (b) ~~During a declared state of emergency in Vermont as a result of COVID-~~  
9       ~~19~~ Through March 31, 2021, the Board of Medical Practice and the Office of  
10      Professional Regulation may permit former health care professionals, including  
11      mental health professionals, who retired more than three but less than 10 years  
12      earlier with their Vermont license, certificate, or registration in good standing  
13      to return to the health care workforce on a temporary basis to provide health  
14      care services, including mental health services, to patients in Vermont. The  
15      Board of Medical Practice and Office of Professional Regulation may issue  
16      temporary licenses to these individuals at no charge and may impose  
17      limitations on the scope of practice of returning health care professionals as the  
18      Board or Office deems appropriate.

19             Sec. 19. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
20                             MEDICAL PRACTICE; IMPUTED JURISDICTION

1       A practitioner of a profession or professional activity regulated by Title 26  
2       of the Vermont Statutes Annotated who provides regulated professional  
3       services to a patient in the State of Vermont without holding a Vermont  
4       license, as may be authorized ~~in~~ during or after a declared state of emergency,  
5       is deemed to consent to, and shall be subject to, the regulatory and disciplinary  
6       jurisdiction of the Vermont regulatory agency or body having jurisdiction over  
7       the regulated profession or professional activity.

8       Sec. 20. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
9                MEDICAL PRACTICE; EMERGENCY AUTHORITY TO ACT  
10              FOR REGULATORY BOARDS

11       (a)(1) ~~During a declared state of emergency in Vermont as a result of~~  
12       ~~COVID-19~~ Through March 31, 2021, if the Director of Professional  
13       Regulation finds that a regulatory body attached to the Office of Professional  
14       Regulation by 3 V.S.A. § 122 cannot reasonably, safely, and expeditiously  
15       convene a quorum to transact business, the Director may exercise the full  
16       powers and authorities of that regulatory body, including disciplinary  
17       authority.

18       (2) ~~During a declared state of emergency in Vermont as a result of~~  
19       ~~COVID-19~~ Through March 31, 2021, if the Executive Director of the Board of  
20       Medical Practice finds that the Board cannot reasonably, safely, and  
21       expeditiously convene a quorum to transact business, the Executive Director

1 may exercise the full powers and authorities of the Board, including  
2 disciplinary authority.

3 (b) The signature of the Director of the Office of Professional Regulation  
4 or of the Executive Director of the Board of Medical Practice shall have the  
5 same force and effect as a voted act of their respective boards.

6 (c)(1) A record of the actions of the Director of the Office of Professional  
7 Regulation taken pursuant to the authority granted by this section shall be  
8 published conspicuously on the website of the regulatory body on whose  
9 behalf the Director took the action.

10 (2) A record of the actions of the Executive Director of the Board of  
11 Medical Practice taken pursuant to the authority granted by this section shall  
12 be published conspicuously on the website of the Board of Medical Practice.

13 Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
14 MEDICAL PRACTICE; EMERGENCY REGULATORY  
15 ORDERS

16 ~~During a declared state of emergency in Vermont as a result of COVID-19~~  
17 Through March 31, 2021, the Director of Professional Regulation and the  
18 Commissioner of Health may issue such orders governing regulated  
19 professional activities and practices as may be necessary to protect the public  
20 health, safety, and welfare. If the Director or Commissioner finds that a  
21 professional practice, act, offering, therapy, or procedure by persons licensed

1 or required to be licensed by Title 26 of the Vermont Statutes Annotated is  
2 exploitative, deceptive, or detrimental to the public health, safety, or welfare,  
3 or a combination of these, the Director or Commissioner may issue an order to  
4 cease and desist from the applicable activity, which, after reasonable efforts to  
5 publicize or serve the order on the affected persons, shall be binding upon all  
6 persons licensed or required to be licensed by Title 26 of the Vermont Statutes  
7 Annotated, and a violation of the order shall subject the person or persons to  
8 professional discipline, may be a basis for injunction by the Superior Court,  
9 and shall be deemed a violation of 3 V.S.A. § 127.

10 \* \* \*

11 \* \* \* Telehealth \* \* \*

12 \* \* \*

13 Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS

14 ~~DURING STATE OF EMERGENCY~~ FOR A LIMITED TIME

15 Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to  
16 the contrary, ~~during a declared state of emergency in Vermont as a result of~~  
17 ~~COVID-19~~ through March 31, 2021, the following provisions related to the  
18 delivery of health care services through telemedicine or by store-and-forward  
19 means shall not be required, to the extent their waiver is permitted by federal  
20 law:

1 (1) delivering health care services, including dental services, using a  
2 connection that complies with the requirements of the Health Insurance  
3 Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance  
4 with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use  
5 such a connection under the circumstances;

6 (2) representing to a patient that the health care services, including  
7 dental services, will be delivered using a connection that complies with the  
8 requirements of the Health Insurance Portability and Accountability Act of  
9 1996, Pub. L. No. 104-191 in accordance with 18 V.S.A. § 9361(c), if it is not  
10 practicable to use such a connection under the circumstances; and

11 (3) obtaining and documenting a patient’s oral or written informed  
12 consent for the use of telemedicine or store-and-forward technology prior to  
13 delivering services to the patient in accordance with 18 V.S.A. § 9361(c), if  
14 obtaining or documenting such consent, or both, is not practicable under the  
15 circumstances.

16 \* \* \*

17 \* \* \* Effective Dates \* \* \*

18 Sec. 38. EFFECTIVE DATES

19 This act shall take effect on passage, except that:

20 (1) In Sec. 24, 8 V.S.A. § 4100k(e) (coverage of health care services  
21 delivered by store-and-forward means) shall take effect on ~~January 1, 2021~~

1 May 1, 2020 for commercial health insurance and on July 1, 2020 for Vermont  
2 Medicaid.

3 \* \* \*

4 Sec. 14. OFFICE OF PROFESSIONAL REGULATION; TEMPORARY  
5 LICENSURE

6 Notwithstanding any provision of 3 V.S.A. § 129(a)(10) to the contrary,  
7 through March 31, 2021, a board or profession attached to the Office of  
8 Professional Regulation may issue a temporary license to an individual who is  
9 a graduate of an approved education program if the licensing examination  
10 required for the individual’s profession is not reasonably available.

11 Sec. 15. BOARD OF MEDICAL PRACTICE; TEMPORARY  
12 PROVISIONS; PHYSICIANS, PHYSICIAN ASSISTANTS,  
13 AND PODIATRISTS

14 (a) Notwithstanding any provision of 26 V.S.A. § 1353(11) to the contrary,  
15 the Board of Medical Practice or its Executive Director may issue a temporary  
16 license through March 31, 2021 to an individual who is licensed to practice as  
17 a physician, physician assistant, or podiatrist in another jurisdiction, whose  
18 license is in good standing, and who is not subject to disciplinary proceedings  
19 in any other jurisdiction. The temporary license shall authorize the holder to  
20 practice in Vermont until a date not later than April 1, 2021, provided the  
21 licensee remains in good standing.



1 (b) Through March 31, 2021, the Board of Medical Practice or its  
2 Executive Director may waive supervision and scope of practice requirements  
3 for physician assistants, including the requirement for documentation of the  
4 relationship between a physician assistant and a physician pursuant to 26  
5 V.S.A. § 1735a. The Board or Executive Director may impose limitations or  
6 conditions when granting a waiver under this subsection.

7 \* \* \* Delivery of Health Care Services by Telehealth and Telephone \* \* \*

8 Sec. 16. COVERAGE FOR HEALTH CARE SERVICES DELIVERED BY  
9 TELEPHONE; WORKING GROUP

10 (a) The Department of Financial Regulation shall convene a working group  
11 to develop recommendations for health insurance and Medicaid coverage of  
12 health care services delivered by telephone after the COVID-19 state of  
13 emergency ends. The working group shall include representatives of the  
14 Department of Vermont Health Access, health insurers, the Vermont Medical  
15 Society, Bi-State Primary Care Association, the VNAs of Vermont, the  
16 Vermont Association of Hospitals and Health Systems, the Office of the  
17 Health Care Advocate, and other interested stakeholders.

18 (b) On or before December 1, 2020, the Department of Financial  
19 Regulation shall provide to the House Committee on Health Care and the  
20 Senate Committees on Health and Welfare and on Finance the working group’s

1 recommendations for ongoing coverage of health care services delivered by  
2 telephone.

3 Sec. 17. TELEHEALTH; CONNECTIVITY; FUNDING OPPORTUNITIES

4 (a) The Vermont Program for Quality in Health Care, Inc., shall consult  
5 with its Statewide Telehealth Workgroup, the Department of Public Service,  
6 and organizations representing health care providers and health care consumers  
7 to identify:

8 (1) areas of the State that do not have access to broadband service and  
9 that are also medically underserved or have high concentrations of high-risk or  
10 vulnerable patients, or both, and where equitable access to telehealth services  
11 would result in improved patient outcomes or reduced health care costs, or  
12 both; and

13 (2) opportunities to use federal funds and funds from other sources to  
14 increase Vermonters' access to clinically appropriate telehealth services,  
15 including opportunities to maximize access to federal grants through strategic  
16 planning, coordination, and resource and information sharing.

17 (b) Based on the information obtained pursuant to subsection (a) of this  
18 section, the Vermont Program for Quality in Health Care, Inc., and the  
19 Department of Public Service, with input from organizations representing  
20 health care providers and health care consumers, shall support health care  
21 providers' efforts to pursue available funding opportunities in order to increase

1 Vermonters’ access to clinically appropriate telehealth services via information  
2 dissemination and technical assistance to the extent feasible under the current  
3 billback funding mechanism under 18 V.S.A. § 9416(c).

4 (c) In coordinating and administering the efforts described in this section,  
5 the Vermont Program for Quality in Health Care, Inc. shall use federal funds to  
6 the greatest extent possible.

7 \* \* \* Effective Dates \* \* \*

8 Sec. 18. EFFECTIVE DATES

9 This act shall take effect on passage, except:

10 (1) Sec. 4 (Mental Health Integration Council; report) shall take effect  
11 on July 1, 2020;

12 (2) Sec. 6 (33 V.S.A. § 2073) shall take effect on the later of January 1,  
13 2022 or upon approval of the VPharm coverage expansion by the Centers for  
14 Medicare and Medicaid Services;

15 (3) in Sec. 8, 18 V.S.A. § 9418b(h)(2) (attestation of prior authorization  
16 requirement review) shall take effect on July 1, 2021; and

17 (4) notwithstanding 1 V.S.A. § 214, in Sec. 14 (2020 Acts and Resolves  
18 No. 91), the amendment to Sec. 38 (effective date for store and forward) shall  
19 take effect on passage and shall apply retroactively to March 30, 2020.

20  
21

1

2

3 (Committee vote: \_\_\_\_\_)

4

\_\_\_\_\_

5

Senator \_\_\_\_\_

6

FOR THE COMMITTEE