

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred Senate Bill No. 41
3 entitled “An act relating to regulating entities that administer health
4 reimbursement arrangements” respectfully reports that it has considered the
5 same and recommends that the House propose to the Senate that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 Sec. 1. 18 V.S.A. § 9417 is added to read:

9 § 9417. TAX-ADVANTAGED ACCOUNTS FOR HEALTH-RELATED
10 EXPENSES; ADMINISTRATION; RULEMAKING

11 (a) As used in this section:

12 (1) “Flexible spending account” or “FSA” has the same meaning as in
13 26 U.S.C. § 106(c)(2).

14 (2) “Health reimbursement arrangement” or “HRA” means any account-
15 based reimbursement arrangement funded solely by employer contributions
16 that reimburses an employee, spouse, or dependents, or a combination thereof,
17 for medical care expenses incurred by the employee, spouse, dependents, or a
18 combination thereof, up to a maximum coverage amount set by the employer
19 for a given coverage period, and that is established pursuant to 26 U.S.C.
20 §§ 105–106 and applicable guidance from the Internal Revenue Service.

1 (3) “Health savings account” or “HSA” has the same meaning as in
2 26 U.S.C. § 223(d)(1).

3 (b) Any entity administering one or more HRAs, HSAs, **or** FSAs, **or**
4 **similar tax-advantaged accounts for health-related expenses,** or a
5 combination of these, in this State **is providing financial services to Vermont**
6 **residents and** is subject to the jurisdiction of the Commissioner of Financial
7 Regulation pursuant to 8 V.S.A. § 10 and all other applicable provisions.

8 (c) The Commissioner of Financial Regulation shall adopt rules pursuant to
9 3 V.S.A. chapter 25 to license and regulate, to the extent permitted under
10 federal law, entities administering or proposing to administer one or more
11 HRAs, HSAs, **or** FSAs, **or similar tax-advantaged accounts for health-**
12 **related expenses,** or a combination of these, in this State, **in order to protect**
13 **Vermont consumers and employers and to help ensure that funds are**
14 **disbursed appropriately.** The rules **may shall** include:

15 (1) annual licensure or registration filing requirements; and
16 (2) such requirements and qualifications for such entities as the
17 Commissioner determines are appropriate, which may include:
18 (A) bonding, surplus, reserves, or a combination thereof;
19 (B) information security and confidentiality; and
20 (C) examination and enforcement.

1 (d) Following the adoption of rules pursuant to subsection (c) of this
2 section, an entity making an initial application for a license or registration to
3 administer HRAs, HSAs, or FSAs, or similar tax-advantaged accounts for
4 health-related expenses, or a combination of these, in this State shall pay to
5 the Commissioner a nonrefundable fee of \$600.00 for examining,
6 investigating, and processing the application. Each such entity shall also pay a
7 renewal fee of \$600.00 on or before December 31 every three years following
8 initial licensure.

9 **(e) This section shall not apply to an employer that self-administers**
10 **one or more tax-advantaged accounts on behalf of its own employees.**

11 Sec. 2. RULEMAKING; REPORT

12 On or before February 15, 2020, the Commissioner of Financial Regulation
13 shall provide an update to the Senate Committee on Finance and the House
14 Committees on Health Care and on Commerce and Economic Development on
15 the progress of the rulemaking required by Sec. 1 of this act, including any
16 findings related to the permissible scope of the rule.

17 Sec. 3. EFFECTIVE DATE

18 This act shall take effect on passage, provided that the Department of
19 Financial Regulation shall adopt its final rule on or before September 1, 2020
20 regulating entities that administer HRAs, HSAs, or FSAs, or similar tax-
21 **advantaged accounts for health-related expenses, or a combination of these.**

1 and that after passage the title of the bill be amended to read: “An act
2 relating to regulating entities that administer tax-advantaged accounts for
3 health-related expenses”

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10 (Committee vote:)

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Representative

FOR THE COMMITTEE