

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

\* \* \*

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

§ 9451. DEFINITIONS

As used in this subchapter:

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

\* \* \*

Sec. 3. HOSPITAL BUDGET REVIEW; TRANSITIONAL PROVISIONS

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

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

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

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

20       Sec. 4. MENTAL HEALTH INTEGRATION COUNCIL; REPORT

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

7       (b) Membership.

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

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

10          (B) the Commissioner of Health or designee;

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

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

13          (E) the Commissioner of Corrections or designee;

14          **(F) the Commissioner of Disabilities, Aging, and Independent**

15       **Living;**

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

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

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

20          (J) the Secretary of Education or designee;

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

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

2           Hospitals and Health Systems;

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

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

5           Mental Health and Addiction Recovery;

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

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

8           School;

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

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

11          § 9602;

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

13          18 V.S.A. § 7259;

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

15          number of covered lives in Vermont;

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

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

18          who has delivered peer services;

19          (V) one family member of a person who has received mental health

20          services, appointed by the Vermont chapter of National Alliance on Mental

21          Illness; and

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

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

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

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

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

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

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

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

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

21           (e) Report.

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

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

9           (f) Meetings.

10           (1) The Commissioner of Mental Health shall call the first meeting of  
11           the Council.

12           (2) The Commissioner of Mental Health shall serve as chair. The  
13           Commissioner of **Vermont Health Access Health** shall serve as vice chair.

14           (3) The Council shall meet bimonthly between October 1, 2020 and  
15           January 1, 2023.

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

17           (g) Compensation and reimbursement. Members of the Council shall be  
18           entitled to per diem compensation and reimbursement of expenses as permitted  
19           under 32 V.S.A. § 1010 for not more than eight meetings. These payments  
20           shall be made from monies appropriated to the Department of Mental Health.

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

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

9        (b) Conditions. As a condition of further State funding, the General  
10       Assembly requires that the following **quality oversight** measures be  
11       implemented by the Brattleboro Retreat under the oversight of the Department  
12       of Mental Health:

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

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



1           (3) ensure that the mental health patient representative be a regular  
2           presenter at the Brattleboro Retreat’s employee orientation programming; and

3           (4) ensure that the Brattleboro Retreat’s Board of Directors meet  
4           independently with staff members in implementing the Retreat’s Action  
5           Plan for Sustainability.

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

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

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

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

21                                   \* \* \* VPharm Coverage Expansion \* \* \*

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

2 § 2073. VPHARM ASSISTANCE PROGRAM

3 (a) ~~Effective January 1, 2006, the~~ The VPharm program is established as a  
4 State pharmaceutical assistance program to provide supplemental  
5 pharmaceutical coverage to Medicare beneficiaries. The supplemental  
6 coverage under subsection (c) of this section shall provide ~~only~~ the same  
7 pharmaceutical coverage as the Medicaid program to enrolled individuals  
8 whose income is not greater than ~~150~~ 225 percent of the federal poverty  
9 guidelines ~~and only coverage for maintenance drugs for enrolled individuals~~  
10 ~~whose income is greater than 150 percent and no greater than 225 percent of~~  
11 ~~the federal poverty guidelines.~~

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

17 \* \* \*

18 Sec. 7. SUPPLEMENTAL VPHARM COVERAGE; GLOBAL

19 COMMITMENT WAIVER RENEWAL; RULEMAKING

20 (a) The Agency of Human Services shall request approval from the Centers  
21 for Medicare and Medicaid Services to include in Vermont's Global

1 Commitment to Health Section 1115 Medicaid demonstration renewal an  
2 expansion of the VPharm coverage for Vermont Medicare beneficiaries with  
3 income between 150 and 225 percent of the federal poverty level (FPL) to be  
4 the same as the pharmaceutical coverage under the Medicaid program.

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

9 \* \* \* Prior Authorization \* \* \*

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

11 § 9418b. PRIOR AUTHORIZATION

12 \* \* \*

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

1           (2) A health plan shall attest to the Department of Financial Regulation  
2           and the Green Mountain Care Board annually on or before September 15 that it  
3           has completed the review and appropriate elimination of prior authorization  
4           requirements as required by subdivision (1) of this subsection.

5           Sec. 9. PRIOR AUTHORIZATION; ELECTRONIC HEALTH RECORDS;  
6           REPORT

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

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

16           The Green Mountain Care Board, in consultation with the Department of  
17           Vermont Health Access, certified accountable care organizations, payers  
18           participating in the All-Payer ACO Model, health care providers, and other  
19           interested stakeholders, shall evaluate opportunities for and obstacles to  
20           aligning and reducing prior authorization requirements under the All-Payer  
21           ACO Model as an incentive to increase scale, as well as potential opportunities

1 to waive additional Medicare administrative requirements in the future. On or  
2 before January 15, 2022, the Board shall submit the results of its evaluation to  
3 the House Committee on Health Care and the Senate Committees on Health  
4 and Welfare and on Finance.

5 Sec. 11. PRIOR AUTHORIZATION; GOLD CARDING; PILOT

6 PROGRAM; REPORTS

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

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

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

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

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

1           (4) whom to contact for questions about the program or about  
2           determining a health care provider’s eligibility for the program.

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

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

9           (2) prospects for the health insurer continuing or expanding the  
10          program;

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

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

15          **Sec. 12. PRIOR AUTHORIZATION; PROVIDER EXEMPTIONS; REPORT**

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

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

4           (2)(A) for each service for which Vermont Medicaid requires prior  
5           authorization:

6                   (i) the denial rate for prior authorization requests; and

7                   (ii) the potential for harm in the absence of a prior authorization  
8           requirement;

9           (B) based on the information provided pursuant to subdivision (A) of  
10           this subdivision (2), the services for which the Department would consider:

11                   (i) waiving the prior authorization requirement; and

12                   (ii) exempting from prior authorization requirements those health  
13           care professionals whose prior authorization requests are routinely granted;

14           (3) the results of the Department’s current efforts to engage with health  
15           care providers and Medicaid beneficiaries to determine the burdens and  
16           consequences of the Medicaid prior authorization requirements and the  
17           providers’ and beneficiaries’ recommendations for modifications to those  
18           requirements;

19           (4) the potential to implement systems that would streamline prior  
20           authorization processes for the services for which it would be appropriate, with  
21           a focus on reducing the burdens on providers, patients, and the Department;

1           (5) which State and federal approvals would be needed in order to make  
2           proposed changes to the Medicaid prior authorization requirements; and

3           (6) the potential for aligning prior authorization requirements across  
4           payers.

5                           \* \* \* 2021 Health Insurance Plan Rate Review \* \* \*

6           **Sec. 13. HEALTH INSURANCE RATE REVIEW; PLAN YEAR 2021;**

7                           **AFFORDABILITY AS PRIORITY**

8           **In recognition of the impact of the COVID-19 public health emergency**  
9           **on the financial capacity of many individuals and businesses in Vermont,**  
10           **when conducting health insurance rate reviews pursuant to 8 V.S.A.**  
11           **§ 4062 for the 2021 plan year, the Green Mountain Care Board shall**  
12           **prioritize plan affordability over insurer solvency to the greatest extent**  
13           **actuarially feasible. In addition, when considering insurer solvency**  
14           **pursuant to 8 V.S.A. § 4062(a)(2)(B), the Department of Financial**  
15           **Regulation shall take into account an insurer’s claims experience during**  
16           **the COVID-19 public health emergency, including the effects of provider**  
17           **suspension or cancellation of elective procedures on the insurer’s claims**  
18           **costs, and apply that perspective in its solvency opinions for the 2021 plan**  
19           **year.**

20                           \* \* \* Extending Certain Act 91 Provisions Beyond State of Emergency \* \* \*

21                           **(from 20-0981 SH&W committee bill)**



1 Sec. 14. 2020 Acts and Resolves No. 91 is amended to read:

2 \* \* \* Supporting Health Care and Human Service Provider Sustainability\* \* \*

3 Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND  
4 HUMAN SERVICE PROVIDER SUSTAINABILITY

5 ~~During a declared state of emergency in Vermont as a result of COVID-19~~  
6 ~~Through March 31, 2021~~, the Agency of Human Services shall consider  
7 ~~waiving or~~ modifying existing rules; or adopting emergency rules; to protect  
8 access to health care services, long-term services and supports, and other  
9 human services under the Agency’s jurisdiction. In ~~waiving~~, modifying, or  
10 adopting rules, the Agency shall consider the importance of the financial  
11 viability of providers that rely on funding from the State, federal government,  
12 or Medicaid, or a combination of these, for a major portion of their revenue.

13 Sec. 2. AGENCY OF HUMAN SERVICES; TEMPORARY PROVIDER  
14 TAX MODIFICATION AUTHORITY (no extension – remove?)

15 (a) During a declared state of emergency in Vermont as a result of COVID-  
16 19 and for a period of six months following the termination of the state of  
17 emergency, the Secretary of Human Services may modify payment of all or a  
18 prorated portion of the assessment imposed on hospitals by 33 V.S.A. § 1953,  
19 and may waive or modify payment of all or a prorated portion of the  
20 assessment imposed by 33 V.S.A. chapter 19, subchapter 2 for one or more  
21 other classes of health care providers, if the following two conditions are met:

1           (1) the action is necessary to preserve the ability of the providers to  
2 continue offering necessary health care services; and

3           (2) the Secretary has obtained the approval of the Joint Fiscal  
4 Committee and the Emergency Board as set forth in subsections (b) and (c) of  
5 this section.

6           (b)(1) If the Secretary proposes to waive or modify payment of an  
7 assessment in accordance with the authority set forth in subsection (a) of this  
8 section, the Secretary shall first provide to the Joint Fiscal Committee:

9                   (A) the Secretary’s rationale for exercising the authority, including  
10 the balance between the fiscal impact of the proposed action on the State  
11 budget and the needs of the specific class or classes of providers; and

12                   (B) a plan for mitigating the fiscal impact to the State.

13           (2) Upon the Joint Fiscal Committee’s approval of the plan for  
14 mitigating the fiscal impact to the State, the Secretary may waive or modify  
15 payment of the assessment as proposed unless the mitigation plan includes one  
16 or more actions requiring the approval of the Emergency Board.

17           (c)(1) If the mitigation plan includes one or more actions requiring the  
18 approval of the Emergency Board, the Secretary shall obtain the Emergency  
19 Board’s approval for the action or actions prior to waiving or modifying  
20 payment of the assessment.

1           (2) Upon the Emergency Board’s approval of the action or actions, the  
2 Secretary may waive or modify payment of the assessment as proposed.

3                   \* \* \* Protections for Employees of Health Care Facilities  
4                                   and Human Service Providers \* \* \*

5           Sec. 3. PROTECTIONS FOR EMPLOYEES OF HEALTH CARE  
6                   FACILITIES AND HUMAN SERVICE PROVIDERS

7           In order to protect employees of a health care facility or human service  
8 provider who are not licensed health care professionals from the risks  
9 associated with COVID-19, **through March 31, 2021**, all health care facilities  
10 and human service providers in Vermont, including hospitals, federally  
11 qualified health centers, rural health clinics, residential treatment programs,  
12 homeless shelters, home- and community-based service providers, and long-  
13 term care facilities, shall follow guidance from the Vermont Department of  
14 Health regarding measures to address employee safety, to the extent feasible.

15                   \* \* \* Compliance Flexibility \* \* \*

16           Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER  
17                   REGULATION; WAIVER OR VARIANCE PERMITTED **(no**  
18 **extension – remove?)**

19           Notwithstanding any provision of the Agency of Human Services’  
20 administrative rules or standards to the contrary, during a declared state of  
21 emergency in Vermont as a result of COVID-19, the Secretary of Human

1 Services may waive or permit variances from the following State rules and  
2 standards governing providers of health care services and human services as  
3 necessary to prioritize and maximize direct patient care, support children and  
4 families who receive benefits and services through the Department for  
5 Children and Families, and allow for continuation of operations with a reduced  
6 workforce and with flexible staffing arrangements that are responsive to  
7 evolving needs, to the extent such waivers or variances are permitted under  
8 federal law:

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

- 1 (13) Public Assistance Program Regulations;
- 2 (14) Foster Care and Residential Program Regulations; and
- 3 (15) other rules and standards for which the Agency of Human Services
- 4 is the adopting authority under 3 V.S.A. chapter 25.

5 Sec. 5. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR  
6 VARIANCE PERMITTED (no extension – remove?)

7 Notwithstanding any provision of 18 V.S.A. chapter 220 or 221, 8 V.S.A.  
8 § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain Care  
9 Board’s administrative rules, guidance, or standards to the contrary, during a  
10 declared state of emergency in Vermont as a result of COVID-19 and for a  
11 period of six months following the termination of the state of emergency, the  
12 Green Mountain Care Board may waive or permit variances from State laws,  
13 guidance, and standards with respect to the following regulatory activities, to  
14 the extent permitted under federal law, as necessary to prioritize and maximize  
15 direct patient care, safeguard the stability of health care providers, and allow  
16 for orderly regulatory processes that are responsive to evolving needs related to  
17 the COVID-19 pandemic:

- 18 (1) hospital budget review;
- 19 (2) certificates of need;
- 20 (3) health insurance rate review; and
- 21 (4) accountable care organization certification and budget review.

1           Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER  
2                           ENROLLMENT AND CREDENTIALING (DVHA wants  
3           extension; DFR does not)

4           During a declared state of emergency in Vermont as a result of COVID-19,  
5           to the extent permitted under federal law, the Department of Vermont Health  
6           Access shall relax provider enrollment requirements for the Medicaid program,  
7           and the Department of Financial Regulation shall direct health insurers to relax  
8           provider credentialing requirements for health insurance plans, in order to  
9           allow for individual health care providers to deliver and be reimbursed for  
10          services provided across health care settings as needed to respond to  
11          Vermonters' evolving health care needs.

12          Sec. 7. INVOLUNTARY TREATMENT; DOCUMENTATION AND  
13                           REPORTING REQUIREMENTS; WAIVER PERMITTED (no  
14          extension – remove?)

15          (a) Notwithstanding any provision of statute or rule to the contrary, during  
16          a declared state of emergency in Vermont as a result of COVID-19, the court  
17          or the Department of Mental Health may waive any financial penalties  
18          associated with a treating health care provider's failure to comply with one or  
19          more of the documentation and reporting requirements related to involuntary  
20          treatment pursuant to 18 V.S.A. chapter 181, to the extent permitted under  
21          federal law.

1 (b) Nothing in this section shall be construed to suspend or waive any of  
2 the requirements in 18 V.S.A. chapter 181 relating to judicial proceedings for  
3 involuntary treatment and medication.

4 \* \* \* Access to Health Care Services and Human Services \* \* \*

5 Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF  
6 FINANCIAL REGULATION; EMERGENCY RULEMAKING

7 It is the intent of the General Assembly to increase Vermonters' access to  
8 medically necessary health care services during and after a declared state of  
9 emergency in Vermont as a result of COVID-19. During such a declared state  
10 of emergency, the Until July 1, 2021, and notwithstanding any provision of 3  
11 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall  
12 consider adopting, and shall have the authority to adopt, emergency rules to  
13 address the following for the duration of the state of emergency through June  
14 30, 2021:

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

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

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

5 Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;  
6 EARLY REFILLS

7 (a) As used in this section, “health insurance plan” means any health  
8 insurance policy or health benefit plan offered by a health insurer, as defined in  
9 18 V.S.A. § 9402. The term does not include policies or plans providing  
10 coverage for a specified disease or other limited benefit coverage.

11 (b) ~~During a declared state of emergency in Vermont as a result of COVID-~~  
12 ~~19~~ Through June 30, 2021, all health insurance plans and Vermont Medicaid  
13 shall allow their members to refill prescriptions for chronic maintenance  
14 medications early to enable the members to maintain a 30-day supply of each  
15 prescribed maintenance medication at home.

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

20 Sec. 10. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF  
21 PRESCRIPTION FOR MAINTENANCE MEDICATION



1 (a) ~~During a declared state of emergency in Vermont as a result of COVID-~~  
2 ~~19 Through June 30, 2021~~, a pharmacist may extend a previous prescription  
3 for a maintenance medication for which the patient has no refills remaining or  
4 for which the authorization for refills has recently expired if it is not feasible to  
5 obtain a new prescription or refill authorization from the prescriber.

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

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

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

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

1 (b) As soon as reasonably possible after substituting a drug or insulin  
2 product pursuant to subsection (a) of this section, the pharmacist shall notify  
3 the prescribing clinician of the drug or insulin product, dose, and quantity  
4 actually dispensed to the patient.

5 Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

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

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

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

17 \* \* \* Regulation of Professions \* \* \*

18 Sec. 14. 3 V.S.A. § 129 is amended to read: (OPR wants authority beyond  
19 current state of emergency – either do in session law or amend outside Act 91)

20 § 129. POWERS OF BOARDS; DISCIPLINE PROCESS

1 (a) In addition to any other provisions of law, a board may exercise the  
2 following powers:

3 \* \* \*

4 (10)(A) Issue temporary licenses during a declared state of emergency.

5 The person to be issued a temporary license must be:

6 (i) currently licensed, in good standing, and not subject to  
7 disciplinary proceedings in any other jurisdiction; or

8 (ii) a graduate of an approved education program during a period  
9 when licensing examinations are not reasonably available.

10 (B) The temporary license shall authorize the holder to practice in  
11 Vermont until the termination of the declared state of emergency or 90 days,  
12 whichever occurs first, ~~as long as~~ provided the licensee remains in good  
13 standing, and may be reissued by the board if the declared state of emergency  
14 continues longer than 90 days.

15 (C) Fees shall be waived when a license is required to provide  
16 services under this subdivision.

17 \* \* \*

18 \* \* \*

1           Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
2                           MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE  
3                           PROFESSIONALS

4           (a) Notwithstanding any provision of Vermont’s professional licensure  
5 statutes or rules to the contrary, **during a declared state of emergency in**  
6 **Vermont as a result of COVID-19 through March 31, 2021**, a health care  
7 professional, including a mental health professional, who holds a valid license,  
8 certificate, or registration to provide health care services in any other U.S.  
9 jurisdiction shall be deemed to be licensed, certified, or registered to provide  
10 health care services, including mental health services, to a patient located in  
11 Vermont using telehealth or as part of the staff of a licensed facility, provided  
12 the health care professional:

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

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

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

20           (b) A health care professional who plans to provide health care services in  
21 Vermont as part of the staff of a licensed facility shall submit or have

1 submitted on the individual's behalf the individual's name, contact  
2 information, and the location or locations at which the individual will be  
3 practicing to:

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

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

8 (c) A health care professional who delivers health care services in Vermont  
9 pursuant to subsection (a) of this section shall be subject to the imputed  
10 jurisdiction of the Board of Medical Practice or the Office of Professional  
11 Regulation, as applicable based on the health care professional's profession, in  
12 accordance with Sec. 19 of this act.

13 (d) This section shall remain in effect ~~until the termination of the declared~~  
14 ~~state of emergency in Vermont as a result of COVID-19 and through March~~  
15 ~~31, 2021.~~ provided the health care professional remains licensed, certified, or  
16 registered in good standing.

17 Sec. 18. RETIRED HEALTH CARE PROFESSIONALS; BOARD OF  
18 MEDICAL PRACTICE; OFFICE OF PROFESSIONAL  
19 REGULATION (OPR wants to extend)

20 (a)(1) During a declared state of emergency in Vermont as a result of  
21 COVID-19, a former health care professional, including a mental health

1 professional, who retired not more than three years earlier with the individual's  
2 Vermont license, certificate, or registration in good standing may provide  
3 health care services, including mental health services, to a patient located in  
4 Vermont using telehealth or as part of the staff of a licensed facility after  
5 submitting, or having submitted on the individual's behalf, to the Board of  
6 Medical Practice or Office of Professional Regulation, as applicable, the  
7 individual's name, contact information, and the location or locations at which  
8 the individual will be practicing.

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

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

1 scope of practice of returning health care professionals as the Board or Office  
2 deems appropriate.

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

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

12 Sec. 20. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
13 MEDICAL PRACTICE; EMERGENCY AUTHORITY TO ACT  
14 FOR REGULATORY BOARDS **(OPR wants to extend)**

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

1           (2) During a declared state of emergency in Vermont as a result of  
2 COVID-19, if the Executive Director of the Board of Medical Practice finds  
3 that the Board cannot reasonably, safely, and expeditiously convene a quorum  
4 to transact business, the Executive Director may exercise the full powers and  
5 authorities of the Board, including disciplinary authority.

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

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

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

16           Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
17                           MEDICAL PRACTICE; EMERGENCY REGULATORY  
18                           ORDERS (OPR wants to extend)

19           During a declared state of emergency in Vermont as a result of COVID-19,  
20 the Director of Professional Regulation and the Commissioner of Health may  
21 issue such orders governing regulated professional activities and practices as



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

13 \* \* \* Quarantine and Isolation for COVID-19 as Exception

14 to Seclusion \* \* \*

15 Sec. 22. ISOLATION OR QUARANTINE FOR COVID-19 NOT

16 SECLUSION (no response from DMH or DCF; VAHHS wants to  
17 extend)

18 (a) Notwithstanding any provision of statute or rule to the contrary, it shall  
19 not be considered the emergency involuntary procedure of seclusion for a  
20 voluntary patient, or for an involuntary patient in the care and custody of the  
21 Commissioner of Mental Health, to be placed in quarantine if the patient has



1 with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use  
2 such a connection under the circumstances;

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

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

13 \* \* \*

14 \* \* \* Effective Dates \* \* \*

15 Sec. 38. EFFECTIVE DATES

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

17 (1) In Sec. 24, 8 V.S.A. § 4100k(e) (coverage of health care services  
18 delivered by store-and-forward means) shall take effect on **January 1, 2021**  
19 **May 1, 2020** (for private insurance only or including Medicaid?).

20 \* \* \*

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

2           Sec. 15. COVERAGE FOR HEALTH CARE SERVICES DELIVERED BY  
3                           TELEPHONE; WORKING GROUP

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

12           (b) On or before December 1, 2020, the Department of Financial  
13           Regulation shall provide to the House Committee on Health Care and the  
14           Senate Committees on Health and Welfare and on Finance the working group's  
15           recommendations for ongoing coverage of health care services delivered by  
16           telephone.

17           Sec. 16. TELEHEALTH; CONNECTIVITY; FUNDING OPPORTUNITIES

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

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

6           (2) opportunities to use federal funds and funds from other sources to  
7           increase Vermonters’ access to clinically appropriate telehealth services,  
8           including opportunities to maximize access to federal grants through strategic  
9           planning, coordination, and resource and information sharing.

10          (b) Based on the information obtained pursuant to subsection (a) of this  
11          section, the Vermont Program for Quality in Health Care, Inc., and the  
12          Department of Public Service, with input from organizations representing  
13          health care providers and health care consumers, shall provide technical  
14          assistance to support health care providers eligible efforts to pursue available  
15          funding opportunities in order to increase Vermonters’ access to clinically  
16          appropriate telehealth services via information dissemination and technical  
17          assistance to the extent feasible under the current billback funding mechanism  
18          under 18 V.S.A. § 9416(c).

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

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

**Sec. 17. EFFECTIVE DATES**

This act shall take effect on passage, except:

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

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

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

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

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

\_\_\_\_\_

Senator \_\_\_\_\_

FOR THE COMMITTEE