

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       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 **bimonthly every other month** between  
18       October 1, 2020 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 **eight 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 measures be implemented by the  
15 Brattleboro Retreat under the oversight of the Department of Mental Health:

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

20 (2) in addition to existing policies regarding the provision of certificates  
21 of need for emergency involuntary procedures, provide to the Department



1 deidentified certificates of need for emergency involuntary procedures used on  
2 individuals who are not in the custody of the Commissioner;

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

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

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

11 (A) to the extent feasible by the Department, meet jointly each month  
12 with the mental health patient representative contracted pursuant to 18 V.S.A.  
13 § 7253(1)(J) and the mental health care ombudsman established pursuant to  
14 18 V.S.A. § 7259 to review patient experiences of care; and

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

19 (2) On or before February 1, 2021, the Department shall report to the  
20 House Committee on Health Care and to the Senate Committee on Health and

1 Welfare regarding patient experiences and quality of care at the Brattleboro  
2 Retreat.

3 \* \* \* VPharm Coverage Expansion \* \* \*

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

5 § 2073. VPHARM ASSISTANCE PROGRAM

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

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

20 \* \* \*

1       Sec. 7. SUPPLEMENTAL VPHARM COVERAGE; GLOBAL  
2                COMMITMENT WAIVER RENEWAL; RULEMAKING

3                (a) When Vermont next seeks changes to its Global Commitment to  
4 Health Section 1115 Medicaid demonstration waiver, the Agency of Human  
5 Services shall request approval from the Centers for Medicare and Medicaid  
6 Services to include in Vermont's Global Commitment to Health Section  
7 1115 Medicaid demonstration renewal an expansion of the VPharm  
8 coverage for Vermont Medicare beneficiaries with income between 150 and  
9 225 percent of the federal poverty level (FPL) to be the same as the  
10 pharmaceutical coverage under the Medicaid program.

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

15                               \* \* \* Prior Authorization \* \* \*

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

17       § 9418b. PRIOR AUTHORIZATION

18                               \* \* \*

19               (h)(1) A health plan shall review the list of medical procedures and medical  
20 tests for which it requires prior authorization at least annually and shall  
21 eliminate the prior authorization requirements for those procedures and tests

1 for which such a requirement is no longer justified or for which requests are  
2 routinely approved with such frequency as to demonstrate that the prior  
3 authorization requirement does not promote health care quality or reduce  
4 health care spending to a degree sufficient to justify the administrative costs to  
5 the plan.

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

10 Sec. 9. PRIOR AUTHORIZATION; ELECTRONIC HEALTH RECORDS;  
11 REPORT

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

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

1        The Green Mountain Care Board, in consultation with the Department of  
2        Vermont Health Access, certified accountable care organizations, payers  
3        participating in the All-Payer ACO Model, health care providers, and other  
4        interested stakeholders, shall evaluate opportunities for and obstacles to  
5        aligning and reducing prior authorization requirements under the All-Payer  
6        ACO Model as an incentive to increase scale, as well as potential opportunities  
7        to waive additional Medicare administrative requirements in the future. On or  
8        before January 15, 2022, the Board shall submit the results of its evaluation to  
9        the House Committee on Health Care and the Senate Committees on Health  
10       and Welfare and on Finance.

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

12                    PROGRAM; REPORTS

13            (a) On or before January 15, 2022, each health insurer with more than  
14            1,000 covered lives in this State for major medical health insurance shall  
15            implement a pilot program that automatically exempts from or streamlines  
16            certain prior authorization requirements for a subset of participating health care  
17            providers, some of whom shall be primary care providers.

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

- 1           (1) the medical procedures or tests that are exempt from or have  
2           streamlined prior authorization requirements for providers who qualify for the  
3           program;
- 4           (2) the criteria for a health care provider to qualify for the program;
- 5           (3) the number of health care providers who are eligible for the program,  
6           including their specialties and the percentage who are primary care providers;  
7           and
- 8           (4) whom to contact for questions about the program or about  
9           determining a health care provider’s eligibility for the program.
- 10           (c) On or before January 15, 2023, each health insurer required to  
11           implement a prior authorization pilot program under this section shall report to  
12           the House Committee on Health Care, the Senate Committees on Health and  
13           Welfare and on Finance, and the Green Mountain Care Board:
- 14           (1) the results of the pilot program, including an analysis of the costs  
15           and savings;
- 16           (2) prospects for the health insurer continuing or expanding the  
17           program;
- 18           (3) feedback the health insurer received about the program from the  
19           health care provider community; and
- 20           (4) an assessment of the administrative costs to the health insurer of  
21           administering and implementing prior authorization requirements.

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

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

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

10          (2)(A) for each service for which Vermont Medicaid requires prior  
11          authorization:

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

13                  (ii) the potential for harm in the absence of a prior authorization  
14          requirement;

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

17                          (i) waiving the prior authorization requirement; and

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

20                  (3) the results of the Department's current efforts to engage with health  
21          care providers and Medicaid beneficiaries to determine the burdens and

1 consequences of the Medicaid prior authorization requirements and the  
2 providers' and beneficiaries' recommendations for modifications to those  
3 requirements;

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

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

9 (6) the potential for aligning prior authorization requirements across  
10 payers.

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

12 Sec. 13. 2020 Acts and Resolves No. 91 is amended to read:

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

14 Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND  
15 HUMAN SERVICE PROVIDER SUSTAINABILITY

16 ~~During a declared state of emergency in Vermont as a result of COVID-19~~  
17 Through March 31, 2021, the Agency of Human Services shall consider  
18 ~~waiving or~~ modifying existing rules; or adopting emergency rules; to protect  
19 access to health care services, long-term services and supports, and other  
20 human services under the Agency's jurisdiction. In ~~waiving,~~ modifying, or  
21 adopting rules, the Agency shall consider the importance of the financial



1 viability of providers that rely on funding from the State, federal government,  
2 or Medicaid, or a combination of these, for a major portion of their revenue.

3 \* \* \*

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

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

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

16 \* \* \* Compliance Flexibility \* \* \*

17 Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER  
18 REGULATION; WAIVER OR VARIANCE PERMITTED

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 through March 31, 2021,**

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

6 Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER

7 ENROLLMENT AND CREDENTIALING – **extend to later of end**  
8 **of State/national state of emergency, make sure could turn back on if another**  
9 **state of emergency in Vermont**

10 **(a) During Until the last to terminate of** a declared state of emergency in  
11 Vermont as a result of COVID-19, **a declared federal public health**  
12 **emergency as a result of COVID-19, and a declared national emergency as**  
13 **a result of COVID-19, and** to the extent permitted under federal law, the  
14 Department of Vermont Health Access shall relax provider enrollment  
15 requirements for the Medicaid program, and the Department of Financial  
16 Regulation shall direct health insurers to relax provider credentialing  
17 requirements for health insurance plans, in order to allow for individual health  
18 care providers to deliver and be reimbursed for services provided across health  
19 care settings as needed to respond to Vermonters' evolving health care needs.

20 **(b) In the event that another state of emergency is declared in Vermont**  
21 **as a result of COVID-19 after the termination of the State and federal**

1 **emergencies, the Departments shall again cause the provider enrollment**  
2 **and credentialing requirements to be relaxed as set forth in subsection (a)**  
3 **of this section.**

4 \* \* \*

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

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

8 It is the intent of the General Assembly to increase Vermonters' access to  
9 medically necessary health care services during and after a declared state of  
10 emergency in Vermont as a result of COVID-19. ~~During such a declared state~~  
11 ~~of emergency, the~~ Until July 1, 2021, and notwithstanding any provision of 3  
12 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall  
13 consider adopting, and shall have the authority to adopt, emergency rules to  
14 address the following ~~for the duration of the state of emergency~~ through June  
15 30, 2021:

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

19 (2) modifying or suspending health insurance plan deductible  
20 requirements for all prescription drugs, except to the extent that such an action

1 would disqualify a high-deductible health plan from eligibility for a health  
2 savings account pursuant to 26 U.S.C. § 223; and

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

7 Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;  
8 EARLY REFILLS

9 (a) As used in this section, “health insurance plan” means any health  
10 insurance policy or health benefit plan offered by a health insurer, as defined in  
11 18 V.S.A. § 9402. The term does not include policies or plans providing  
12 coverage for a specified disease or other limited benefit coverage.

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

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

1         Sec. 10. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF  
2                                 PRESCRIPTION FOR MAINTENANCE MEDICATION

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

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

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

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

17         (a) ~~During a declared state of emergency in Vermont as a result of COVID-~~  
18         ~~19~~ Through March 31, 2021, a pharmacist may, with the informed consent of  
19         the patient, substitute an available drug or insulin product for an unavailable  
20         prescribed drug or insulin product in the same therapeutic class if the available  
21         drug or insulin product would, in the clinical judgment of the pharmacist, have

1 substantially equivalent therapeutic effect even though it is not a therapeutic  
2 equivalent.

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

7 Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

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

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

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

19 \* \* \* Regulation of Professions \* \* \*

20 \* \* \*

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

20 (a)(1) ~~During a declared state of emergency in Vermont as a result of~~  
21 ~~COVID-19 Through March 31, 2021~~, a former health care professional,

1 including a mental health professional, who retired not more than three years  
2 earlier with the individual's Vermont license, certificate, or registration in  
3 good standing may provide health care services, including mental health  
4 services, to a patient located in Vermont using telehealth or as part of the staff  
5 of a licensed facility after submitting, or having submitted on the individual's  
6 behalf, to the Board of Medical Practice or Office of Professional Regulation,  
7 as applicable, the individual's name, contact information, and the location or  
8 locations at which 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**  
14 **COVID-19 Through March 31, 2021**, the Board of Medical Practice and the  
15 Office of Professional Regulation may permit former health care professionals,  
16 including mental health professionals, who retired more than three but less  
17 than 10 years earlier with their Vermont license, certificate, or registration in  
18 good standing to return to the health care workforce on a temporary basis to  
19 provide health care services, including mental health services, to patients in  
20 Vermont. The Board of Medical Practice and Office of Professional  
21 Regulation may issue temporary licenses to these individuals at no charge and

1 may impose limitations on the scope of practice of returning health care  
2 professionals as the Board or Office 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

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

1           (2) **During a declared state of emergency in Vermont as a result of**  
2 **COVID-19 Through March 31, 2021**, if the Executive Director of the Board  
3 of Medical Practice finds that the Board cannot reasonably, safely, and  
4 expeditiously convene a quorum to transact business, the Executive Director  
5 may exercise the full powers and authorities of the Board, including  
6 disciplinary authority.

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

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

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

17           Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
18                           MEDICAL PRACTICE; EMERGENCY REGULATORY  
19                           ORDERS

20           **During a declared state of emergency in Vermont as a result of**  
21 **COVID-19 Through March 31, 2021**, the Director of Professional

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

14 \* \* \* Quarantine and Isolation for COVID-19 as Exception  
15 to Seclusion \* \* \*

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

17 SECLUSION (no response - DCF; DMH/VAHHS want to 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 been exposed to COVID-19 or in isolation if the patient has tested positive for  
2 COVID-19.

3 (b) Notwithstanding any provision of statute or rule to the contrary, it shall  
4 not be considered seclusion, as defined in the Department for Children and  
5 Families’ Licensing Regulations for Residential Treatment Programs in  
6 Vermont, for a child in a residential treatment facility to be placed in  
7 quarantine if the child has been exposed to COVID-19 or in isolation if the  
8 child has tested positive for COVID-19.

9 \* \* \* Telehealth \* \* \*

10 \* \* \*

11 Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS  
12 DURING STATE OF EMERGENCY

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

19 (1) delivering health care services, including dental services, using a  
20 connection that complies with the requirements of the Health Insurance  
21 Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance

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 commercial health insurance and on July 1, 2021 for**  
20 **Vermont Medicaid.**

21 \* \* \*

1 **Sec. 14. OFFICE OF PROFESSIONAL REGULATION; TEMPORARY**  
2 **LICENSURE**

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

9 **Sec. 15. BOARD OF MEDICAL PRACTICE; TEMPORARY**  
10 **PROVISIONS; PHYSICIANS, PHYSICIAN ASSISTANTS,**  
11 **AND PODIATRISTS**

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



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

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

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

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

19           (b) On or before December 1, 2020, the Department of Financial  
20           Regulation shall provide to the House Committee on Health Care and the  
21           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