Bills Passed by House Health Care Committee 2017-2018

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Topics covered

- Health care administration
- Health care professionals
- Health care reform
- Health information technology
- Health insurance
- Medicaid
- Mental health
- Prescription drugs

Health Care Administration

Act 167 (H.912): An act relating to the health care regulatory duties of the Green Mountain Care Board

- Updates scope of Health Resource Allocation Plan and annual expenditure analysis
- Makes changes to certificate of need process
- Allows Green Mountain Care Board (GMCB) to delegate tasks to members, officers, and employees
- Revises billback formula by which GMCB assesses regulated entities for costs associated with their regulation
- Creates Agency of Human Services (AHS) working group on regulation of freestanding health care facilities
  - Recommendations due by February 1, 2019

Health Care Professionals

Act 39 (S.14), An act relating to expanding the Vermont Practitioner Recovery Network

- Expands existing Vermont Practitioner Recovery Network to include evaluations and coordination of services for licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety
- Affected licensees include podiatrists, physicians, anesthesiologist assistants, physician assistants, and radiologist assistants
- Also waives licensure fees for physicians practicing in Vermont solely for the purpose of volunteering services through the Vermont Medical Reserve Corps

Act 115 (S.253): An act relating to Vermont's adoption of the Interstate Medical Licensure Compact

- Adopts Interstate Medical Licensure Compact in Vermont effective January 1, 2020
- Compact creates expedited licensure process that makes it easier for physicians to be licensed in more than one state
- Discipline in one state may lead to discipline in another state
  - if license is revoked in one state, it is automatically revoked in all others

Act 199 (S.165): An act relating to preemployment health screenings for hospital employees

- Expands categories of licensed health care professionals and designees who may perform preemployment health screenings for hospital employees

Act 202 (S.241), An act relating to the makeup and duties of the Emergency Medical Services Advisory Committee

- Revises membership of Emergency Medical Services Advisory Committee
- Extends annual reporting requirement and adds to information that must be in annual report, including:
  - How emergency medical services (EMS) system is functioning statewide and current state of recruitment and workforce development
  - Each EMS district's response times to 911 emergencies in the previous year
  - Funding mechanisms and funding gaps for EMS personnel and providers
  - Potential improvements to current system of preparing and licensing EMS personnel
- Requires Advisory Committee to meet at least twice between July 1, 2018 and December 31, 2018

Health Care Reform

Act 25 (H.507), An act relating to Next Generation Medicaid ACO pilot project reporting requirements *and* Act 124 (H.914), an act relating to reporting requirements for the second year of the Vermont Medicaid Next Generation ACO Pilot Project

- Both acts require quarterly updates from the Department of Vermont Health Access (DVHA) during adjournment of the 2017 and 2018 legislative sessions on implementation of the Next Generation Medicaid ACO pilot project
- Both acts require quarterly updates from GMCB during adjournment of the 2017 and 2018 legislative sessions on its progress in meeting benchmarks for implementing the All-Payer Model and its regulation of accountable care organizations (ACOs)

Act 59 (S.4), an act relating to publicly accessible meetings of an accountable care organization's governing body

- Requires all meetings of an accountable care organization's (ACO) governing body to be open to the public and to provide an opportunity for public comment
- Allows an ACO's governing body to go into executive session under certain circumstances
- ACO must make the meeting schedule available to the public, either record or take minutes of the meetings, and post recordings or minutes to ACO's website within five business days

S.53 (*not enacted*), An act relating to a universal, publicly funded primary care system

- Senate Health & Welfare made changes to bill as introduced, Senate Appropriations made further amendments, and House Health Care restored Senate Health & Welfare version. Bill died in House Appropriations.
- As passed out of House Health Care, the bill:
  - Expressed legislative intent to create and implement a program of universal, publicly financed primary care for all Vermonters with no cost-sharing
  - Would have required GMC to convene stakeholder group to develop draft operational model for universal primary care program (UPC)
    - Department of Human Resources and DVHA would provide their assessments of model and recommendations on UPC, Department of Financial Regulation would provide recommendations on reinsurance and solvency, and Attorney General's Office (AGO) would conduct legal analysis of potential legal issues with implementing UPC in Vermont
  - Would have directed GMCB to convene working group to develop recommendations on UPC, including which specific services and providers should be included in UPC
  - Provided implementation timeline for UPC, with coverage beginning by January 1, 2022
  - Created new statutory subchapter on UPC with categories of services that should be included in UPC when provided by health care provider in list of primary care specialty types

Health Information Technology

Act 187 (H.901), An act relating to health information technology and health information exchange

- Requires DVHA and Vermont Information Technology Leaders (VITL) to submit several reports before the 2019 legislative session
- Shifts responsibility over Vermont's health information technology (HIT) plan from Agency of Administration to DVHA
- Extends HIT portion of health care claims tax for additional year, through July 1, 2019
- Expresses legislative intent to eliminate VITL's statutory designation to operate statewide health information exchange network if recommendations from a 2017 report are not successfully implemented
- Requires DVHA to submit reports by January 15, 2019 on:
  - consent policy for Vermont Health Information Exchange
  - ways to improve utility and interoperability of electronic health records and health information exchange
- Establishes six-member legislative Joint Information Technology Committee to oversee investments in and use of information technology in Vermont when General Assembly is not in session

Health Insurance

Act 64 (S.50), an act relating to insurance coverage for telemedicine services delivered in or outside a health care facility

- Requires commercial health insurance plans and Medicaid to cover health care services delivered through telemedicine, regardless of whether the patient is in a health care facility, at home, at work, or anywhere else
  - Telemedicine connection still must be secure and comply with federal health privacy laws
- Requires a health care provider delivering health care services through telemedicine to obtain and document a patient's oral or written informed consent before delivering services to the patient
- Prohibits health care providers and patients from recording their telemedicine consultations

Act 88 (S.19), An act relating to allowing silver-level nonqualified health benefit plans to be offered outside the Vermont Health Benefit Exchange

- Allows health insurers to offer silver-level nonqualified health benefit plans outside the Vermont Health Benefit Exchange in the event that federal cost-sharing reduction payments to insurers are suspended or discontinued
- These “reflective” silver plans must be similar to, but contain at least one variation from, silver-level qualified health benefit plans offered through the Exchange
- “Reflective” silver plans do not include funding to offset the loss of the federal cost-sharing reduction payments

Act 131 (H.892), An act relating to short-term, limited-duration health insurance coverage and association health plans

- Directs Department of Financial Regulation (DFR) to adopt rules regulating association health plans in order to protect Vermont consumers and promote stability of Vermont's health insurance markets
- Defines short-term, limited-duration health insurance (STLDI) as health insurance with an expiration date three months or less after original effective date of policy or contract
- Specifies that STLDI policy or contract is nonrenewable and that insurer cannot issue STLDI policy or contract to any person if it would result in the person being covered by STLDI for more than three months in any 12-month period
- Requires prominent disclosures in STLDI policies, contracts, and application materials about scope of coverage, including types of benefits and consumer protections that are and are not included
- Directs DFR to adopt rules regarding STLDI, including requirements to file rates, forms, and advertising materials with DFR for approval

Act 141 (H.639), An act relating to eliminating cost-sharing for certain breast imaging services

- Requires health insurance coverage for screening by ultrasound without cost-sharing requirements for patients whose screening mammograms were inconclusive or who have dense breast tissue, or both
- Directs DFR to issue a bulletin by October 1, 2018 providing clarification to health insurers regarding the coding structure for screening mammograms and ultrasounds and for call-back screenings, including clarifying that call-back mammograms and ultrasounds for patients whose screening mammograms were inconclusive or who have dense breast tissue, or both, must be covered without cost-sharing

Act 159 (S.225), An act relating to pilot programs for coverage by commercial health insurers of costs associated with medication-assisted treatment

- Directs DVHA Commissioner to develop pilot programs that engage one or more health insurers in contributing to the funding of licensed alcohol and drug counselors and other medical professionals who serve individuals receiving medication-assisted treatment within Vermont's spoke practices
- Report due by January 15, 2019 regarding the design and construction of the pilot programs and any recommendations for legislative action.

Act 182 (H.696), An act relating to establishing a State individual mandate

- Establishes individual mandate for Vermont residents to maintain minimum essential health insurance coverage beginning on January 1, 2020
- Expresses legislative intent to enforce individual mandate through financial penalty or other enforcement mechanism to be enacted by General Assembly during the 2019 legislative session
- Creates Individual Mandate Working Group to develop recommendations regarding administration and enforcement of individual mandate
  - Recommendations due to General Assembly by November 1, 2018
- Requires DVHA and others to engage in outreach and education efforts before and during open enrollment periods for health insurance coverage for 2019 and 2020 plan years regarding importance of health insurance coverage and Vermonters' responsibilities under the individual mandate

Act 7 (2018 Sp. Sess.), An act relating to co-payment limits for chiropractic care and physical therapy

- Establishes limits on amount of co-payment requirement that silver- and bronze-level Exchange plans and reflective silver plans can impose for chiropractic care and physical therapy services
  - For plan year 2019 only, co-payment for chiropractic care must be the same as for primary care under plan
  - Beginning in plan year 2020, co-payment for chiropractic care and physical therapy must be 125-150% of the co-payment required for primary care services under plan
- Requires DVHA and insurers to report in 2019 and 2020 on projected impacts of co-payment limits on premium rates, actuarial values, and plan designs
  - Also requires report in November 2021 on impact of co-payment limits on utilization of chiropractic care and physical therapy
- Requires DVHA to convene working group to develop and report recommendations on insurance coverage for nonopioid approaches to treating and managing pain

Medicaid

Act 116 (S.282), An act relating to health care providers participating in Vermont's Medicaid program

- Requires that, by July 1, 2019, DVHA must be completing screening and enrollment process for applicant to be Medicaid participating provider within 60 days after receiving provider's completed application
  - If DVHA will be unable to meet 60-day time frame requirement by July 1, 2019, Commissioner must convene meeting of interested stakeholders by February 1, 2019 to provide update on status of DVHA's screening and enrollment efforts
- Requires DVHA to consult with Medicaid participating providers to identify their main concerns about the Medicaid program and its administration
- Directs DVHA to evaluate implementation of State and federal Medicaid fraud and abuse provisions, assess feasibility of creating exception to recoupment in some instances
- DVHA must convene interested stakeholders by December 15, 2018 to summarize DVHA's responses to provider concerns and potential for changes to Medicaid fraud and abuse statutes and exceptions to recoupment

Act 138 (H.404), An act relating to Medicaid reimbursement for long-acting reversible contraceptives

- Requires DVHA to reimburse health care providers for full cost of device providing long-acting reversible contraception when device is inserted during Medicaid beneficiary's postpartum hospital stay
- Directs health insurers to determine how to provide coverage for over-the-counter oral and emergency contraceptives without requiring prescription or imposing cost-sharing requirements
  - Insurers must report by January 15, 2019 on:
    - how to provide such coverage
    - any estimated impact of such coverage on health insurance premiums
    - whether insurer intends to add the benefit to any or all of its plans

Act 210 (S.262), An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access

- Makes several changes affecting Medicaid and DVHA, including:
  - Provisions related to Medicaid asset verification, including requirements for financial institutions and State governmental agencies to provide DVHA with information about any person or spouse applying for or receiving benefits
  - Eliminating requirement that DVHA apply by March 1, 2019 for federal waiver regarding bronze-level Exchange plans
  - Allows bronze-level Exchange plans that do not meet statutory out-of-pocket maximum for prescription drugs to continue to be offered as long as at least two bronze plans meeting the limit will be offered
  - Provisions regarding fair hearings before Human Services Board, including narrowing circumstances under which AHS Secretary may reverse or modify a decision of the Board
- Modifies membership of Health Reform Oversight Committee

Mental Health

Act 34 (H.184), an act relating to evaluation of suicide profiles

- Requires AHS Secretary to present to committees of jurisdiction by January 15, 2018 a summary of AHS's internal Public Health Suicide Stat process results and any report or analyses completed as part of AHS's participation in CDC's National Violent Death Reporting System grant
- Requires AHS Secretary to present plans to GMCB and committees of jurisdiction by January 15, 2019 describing how certain data will be collected after the grant expires
- By January 15, 2020, AHS Secretary must report to GMCB and committees of jurisdiction a summary of AHS's final National Violent Death Reporting System analysis and AHS's recommendations and action plans

Act 35 (H.230), An act relating to consent by minors for mental health treatment

- Allows a minor to consent to receive outpatient treatment from a mental health professional without the consent of the minor's parent or legal guardian
- "Outpatient treatment" in the context of this act refers to psychotherapy and other counseling services that are supportive, but not prescription drugs

Act 45 (H.145), An act relating to establishing the Mental Health Crisis Response Commission

- Creates Mental Health Crisis Response Commission within AGO to review and improve law enforcement interactions with persons acting in a manner that created reason to believe a mental health crisis was occurring
- Interactions resulting in death or serious bodily injury to any party to the interaction must be referred to AGO by relevant law enforcement agency within 60 days of incident
  - Other interactions, including those with positive outcomes, may be referred to Commission for optional review
- Commission must report its conclusions and recommendations to the Governor, General Assembly, and Chief Justice of the Vermont Supreme Court as the Commission deems necessary, but at least once each calendar year

Act 51 (S.3), An act relating to mental health professionals' duty to warn

- Negates Vermont Supreme Court's decision in *Kuligoski v. Brattleboro Retreat and Northeast Kingdom Human Services*, 2016 VT 54A, and limits a mental health professional's duty to that established in common law in *Peck v. Counseling Service of Addison County, Inc*.
- *Peck* Court held that "a mental health professional who knows or, based upon the standards of the mental health profession, should know that his or her patient poses a serious risk of danger to an identifiable victim has a duty to exercise reasonable care to protect him or her from that danger"
- Act specifies that *Peck* duty must be applied in accordance with State and federal privacy and confidentiality laws
- Act also specifies that the act does not limit claims under State or federal law related to safe patient care, nor affect requirements for mental health professionals to communicate with individuals involved in a patient's care in a manner consistent with legal and professional standards

Act 82 (S.133), An act relating to examining mental health care and care coordination

Provisions include:

- Requiring AHS, in collaboration with others, to produce analysis/action plan regarding the provision of services in emergency departments to individuals presenting symptoms of mental health crisis
- Requiring AHS to submit comprehensive evaluation by January 15, 2019 of overarching structure for delivery of mental health services within sustainable, holistic health care system
- Requiring AHS, in collaboration with DMH and Chief Superior Judge, to report on role of involuntary treatment and medication in emergency department wait times
- Directing DMH to issue request for information for longitudinal study comparing outcomes of patients who received court-ordered medications while hospitalized with patients who did not
- Requiring AHS, in collaboration with others, to develop plan to integrate sources of payments to designated and specialized service agencies (DAs and SSAs)
- Creating Mental Health, Developmental Disabilities, and Substance Use Disorder Workforce Study Committee to look at best practices for training, recruiting, and retaining providers
- Requiring Director of Professional Regulation to engage other states in discussion of creating national standards to coordinate regulation and licensing of mental health professionals

Act 200 (S.203), An act relating to systemic improvements of the mental health system

Makes numerous changes to mental health laws, including:

- Several provisions related to mental health parity and evolving plans to increase inpatient capacity
- Expresses legislative intent to:
  - Increase number of inpatient psychiatric beds in a manner that ensures clinical best practice
  - Support development of UVM Health Network proposal to expand capacity at CVMC campus
  - Replace temporary secure residential recovery facility with permanent facility
- Creates Order of Non-Hospitalization Study Committee
- Requires AHS to report by January 15, 2019 on secure transport of patients by sheriffs' departments
- Requires AHS to present proposal by January 15, 2019 for providing DAs' and SSAs' budgets to GMCB for informational purposes
- Directs DMH to collect data from Vermont hospitals with inpatient psychiatric unit or emergency department receiving patients with psychiatric health needs and report findings annually
- Requires AHS to submit series of reports on State's response to federal requirement to reduce federal Medicaid spending at "institutions for mental disease" (IMDs)

Prescription Drugs

Act 133 (S.175), An act relating to the wholesale importation of prescription drugs into Vermont

- Directs AHS to design program for wholesale importation of prescription drugs into Vermont from Canada that complies with federal requirements
  - Proposed design due to General Assembly by January 1, 2019
  - AHS must apply to federal government by July 1, 2019 for certification of program
- Program cannot be implemented until General Assembly enacts legislation establishing charge-per-prescription or another method of financial support
- AHS must begin implementing the program upon the last to occur of:
  - General Assembly enacting method of financial support; and
  - Receipt of federal certification and approval
- Program operations must start within six months after implementation begins
- AHS must report annually on operation of program during previous calendar year
- AHS is required to design program only to extent that funds are appropriated for that purpose in 2019 budget act or are otherwise made available.

Act 193 (S.92), An act relating to prescription drug price transparency and cost containment

- Adds interchangeable biologics to generic drug substitution laws
- Requires health insurers to report to GMCB regarding plan spending on prescription drugs and the effect of drug costs on plan premiums
- Expands prescription drug price transparency law, including requirement for manufacturers to provide public version of justification for price increases
- Requires drug manufacturers to notify AGO before introducing new, high-cost drug to market
- Prohibits pharmacy benefit managers from including "gag clauses" in contracts with pharmacists
- Creates working group to look at drug pricing throughout supply chain to identify opportunities for savings and for increasing price transparency

Questions?