

1 H.1

2 Introduced by Representative Donahue of Northfield

3 Referred to Committee on

4 Date:

5 Subject: Health; mental health; insurance; benefits

6 Statement of purpose of bill as introduced: This bill proposes to prohibit  
7 management of mental health insurance benefits separately from other health  
8 care benefits. It also prohibits prior authorization requirements for mental  
9 health care that differ from medical or surgical prior authorization  
10 requirements.

11 An act relating to mental health insurance benefits

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 8 V.S.A. § 4089b is amended to read:

14 § 4089b. HEALTH INSURANCE COVERAGE, MENTAL HEALTH, AND  
15 SUBSTANCE USE DISORDER

16 \* \* \*

17 (b) As used in this section:

18 \* \* \*

19 (3) “Rate, term, or condition” means any lifetime or annual payment  
20 limits, deductibles, ~~copayments~~ co-payments, coinsurance, and any other

1 cost-sharing requirements, out-of-pocket limits, visit limits, and any other  
2 financial component of health insurance coverage that affects the insured.

3 (c) A health insurance plan shall provide coverage for treatment of a mental  
4 condition and shall:

5 (1) not establish any rate, term, or condition that places a greater burden  
6 on an insured for access to treatment for a mental condition than for access to  
7 treatment for other health conditions, including no greater co-payment for  
8 primary mental health care or services than the co-payment applicable to care  
9 or services provided by a primary care provider under an insured's policy and  
10 no greater co-payment for specialty mental health care or services than the  
11 co-payment applicable to care or services provided by a specialist provider  
12 under an insured's policy;

13 (2) not exclude from its network or list of authorized providers any  
14 licensed mental health or substance abuse provider located within the  
15 geographic coverage area of the health benefit plan if the provider is willing to  
16 meet the terms and conditions for participation established by the health  
17 insurer;

18 (3) make any deductible or out-of-pocket limits required under a health  
19 insurance plan comprehensive for coverage of both mental and physical health  
20 conditions; ~~and~~

1           (4) if the plan provides prescription drug coverage, ensure that at least  
2           one medication from each drug class approved by the U.S. Food and Drug  
3           Administration for the treatment of substance use disorder is available on the  
4           lowest cost-sharing tier of the plan's prescription drug formulary; and

5           (5) not establish a prior authorization requirement for mental health care  
6           that differs from prior authorization requirements used in the management of  
7           medical or surgical care, unless the health insurance plan can demonstrate that  
8           the requirement is necessary to provide timely and appropriate mental health  
9           care, as supported by evidence-based clinical standards.

10          (d)(1)(A) A health insurance plan that ~~does not otherwise provide~~ provides  
11          for management of care under the plan, ~~or that does not provide for the same~~  
12          ~~degree of management of care for all health conditions, may provide coverage~~  
13          ~~for treatment of mental conditions through a managed care organization,~~  
14          ~~provided that the managed care organization is in compliance with the rules~~  
15          ~~adopted by the Commissioner that ensure that the system for delivery of~~  
16          ~~treatment for mental conditions does not diminish or negate the purpose of this~~  
17          ~~section. In reviewing rates and forms pursuant to section 4062 of this title, the~~  
18          ~~Commissioner or the Green Mountain Care Board established in 18 V.S.A.~~  
19          ~~chapter 220, as appropriate, shall consider the compliance of the policy with~~  
20          ~~the provisions of this section~~ shall ensure that one organization manages care  
21          for all health conditions, including mental conditions, and that the organization

1 provides the same degree of management of care for mental conditions as for  
2 other health conditions. As used in this subdivision (A), “same degree of  
3 management” means that mental health care shall not be limited or managed  
4 differently from the care of other health conditions, unless the organization can  
5 demonstrate that the limitation or differentiation is necessary to provide timely  
6 and appropriate mental health care, as supported by evidence-based clinical  
7 standards. In reviewing rates and forms pursuant to section 4062 of this title,  
8 the Commissioner and the Green Mountain Care Board established pursuant to  
9 18 V.S.A. chapter 220, as appropriate, shall consider whether a health  
10 insurance policy is in compliance with the provisions of this section.

11 (B) The rules adopted by the Commissioner shall ensure that:

12 (i) timely and appropriate access to mental health care is available  
13 and at least as accessible as care for other health conditions;

14 (ii) the quantity, location, and specialty distribution of health care  
15 providers is adequate;

16 (iii) administrative or clinical protocols do not serve to reduce  
17 access to medically necessary mental health treatment for any insured or create  
18 burdens on health care providers or members that differ from or are greater  
19 than administrative or clinical protocols required for other health conditions;

20 (iv) utilization review and other administrative and clinical  
21 protocols do not deter timely and appropriate mental health care, including

1 emergency hospital admissions, or create burdens on health care providers or  
2 members that differ from or are greater than administrative or clinical  
3 protocols required for other health conditions;

4 (v) in the case of a managed care organization ~~which~~ that contracts  
5 with a health insurer to administer the insurer's ~~mental health~~ benefits, the  
6 portion of a health insurer's premium rate attributable to the coverage of  
7 mental health benefits is reviewed under section 4062, 4513, 4584, or 5104 of  
8 this title to determine whether it is excessive, inadequate, unfairly  
9 discriminatory, unjust, unfair, inequitable, misleading, or contrary to the laws  
10 of ~~this~~ the State;

11 (vi) the health insurance plan is consistent with the Blueprint for  
12 Health with respect to mental conditions, as determined by the Commissioner  
13 under 18 V.S.A. § 9414(b)(2);

14 (vii) a quality improvement project is completed annually as a  
15 joint project between the health insurance plan and its ~~mental health~~ managed  
16 care organization to implement policies and incentives to increase  
17 collaboration among providers that will facilitate clinical integration of  
18 services for medical and mental conditions, including:

19 \* \* \*

1                   (C) Prior to the adoption of rules pursuant to this subdivision, the  
2 Commissioner shall consult with the Commissioner of Mental Health ~~and the~~  
3 ~~task force established pursuant to subsection (h) of this section~~ concerning:

4   \* \* \*

5                   (2) ~~A managed care organization providing or administering coverage~~  
6 ~~for treatment of mental conditions on behalf of a health insurance plan shall~~  
7 ~~comply with this section, sections 4089a and 4724 of this title, and 18 V.S.A.~~  
8 ~~§ 9414, with rules adopted pursuant to those provisions of law, and with all~~  
9 ~~other obligations, under Title 18 and under this title, of the health insurance~~  
10 ~~plan and the health insurer on behalf of which the review agent is providing or~~  
11 ~~administering coverage. A violation of any provision of this section shall~~  
12 ~~constitute an unfair act or practice in the business of insurance in violation of~~  
13 ~~section 4723 of this title. [Repealed.]~~

14                   (3) ~~A health insurer that contracts with a managed care organization to~~  
15 ~~provide or administer coverage for treatment of mental conditions is fully~~  
16 ~~responsible for the acts and omissions of the managed care organization,~~  
17 ~~including any violations of this section or a rule adopted pursuant to this~~  
18 ~~section. [Repealed.]~~

19   \* \* \*

20                   Sec. 2. EFFECTIVE DATE

21                   This act shall take effect on July 1, 2021.