1	H.279
2	Introduced by Representative Houghton of Essex
3	Referred to Committee on
4	Date:
5	Subject: Health; Department of Vermont Health Access; Vermont Health
6	Benefit Exchange; Medicaid; Vermont Prescription Monitoring
7	Program; rulemaking
8	Statement of purpose of bill as introduced: This bill proposes to allow the
9	Secretary of Human Services to adopt emergency rules if new State or federal
10	law or guidance requires the State to adopt or amend its rules regarding
11	Medicaid or the Vermont Health Benefit Exchange in a time frame that cannot
12	be accomplished using the regular rulemaking process. It would eliminate the
13	duty of the Vermont Health Benefit Exchange to collect Exchange plan
14	premium payments and would remove a visit limit for preventive dental
15	services in the Medicaid program. The bill would allow the Director of
16	Pharmacy Services for the Department of Vermont Health Access or designee,
17	and a designee of the Department's Medical Director, to query the Vermont
18	Prescription Monitoring System. It would also consolidate the Department of
19	Vermont Health Access's prescription drug program reporting requirements,
20	remove a requirement that the Department report proposed changes to the
21	Medicaid preferred drug list or the Department's drug utilization review

1	procedures to the General Assembly prior to implementation, and eliminate a
2	requirement that the Department submit proposed rules on its pharmaceutical
3	assistance programs to a legislative committee for review and advice.
4 5	An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access
6	It is hereby enacted by the General Assembly of the State of Vermont:
7	* * * Rulemaking Authority * * *
8	Sec. 1. 33 V.S.A. § 1810 is amended to read:
9	§ 1810. RULES
10	The Secretary of Human Services may adopt rules pursuant to 3 V.S.A.
11	chapter 25 as needed to carry out the duties and functions established in this
12	subchapter and to conform the operation of the Vermont Health Benefit
13	Exchange to federal guidance and regulations. The Agency may use the
14	emergency rules process set forth in 3 V.S.A. § 844 but only in the event that
15	new State or federal law or guidance requires Vermont to adopt or amend its
16	rules in a time frame that cannot be accomplished under the traditional
17	rulemaking process. An emergency rule adopted under these exigent

circumstances shall be deemed to meet the standard for the adoption of

emergency rules under 3 V.S.A. § 844(a).

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1	Sec. 2. 33 V.S.A. § 1901(a)(1) is amended to read:
2	(a)(1) The Secretary of Human Services or designee shall take appropriate
3	action, including making of adopting rules, required to administer a medical
4	assistance program under Title XIX (Medicaid) and Title XXI (SCHIP) of the
5	Social Security Act. The Secretary may adopt rules in accordance with
6	3 V.S.A. chapter 25 to conform Vermont's rules regarding health care
7	eligibility and enrollment to federal guidance and regulations. The Agency
8	may use the emergency rules process set forth in 3 V.S.A. § 844 but only in the
9	event that new State or federal law or guidance requires Vermont to adopt or
10	amend its rules in a time frame that cannot be accomplished under the
11	traditional rulemaking process. An emergency rule adopted under these
12	exigent circumstances shall be deemed to meet the standard for the adoption of
13	emergency rules under 3 V.S.A. § 844(a).
14	* * * Exchange Plan Premium Processing * * *
15	Sec. 3. EXCHANGE PLAN PREMIUM PROCESSING; PURPOSE
16	The purpose of Sec. 4 of this act, which amends 33 V.S.A. § 1805, is to
17	transfer the Exchange plan premium processing functions from the Vermont
18	Health Benefit Exchange to the insurance carriers as contemplated by 2018
19	(Sp. Sess.) Acts and Resolves No. 11, Sec. C.102(a)(3).

1	Sec. 4. 33 V.S.A. § 1805 is amended to read:
2	§ 1805. DUTIES AND RESPONSIBILITIES
3	The Vermont Health Benefit Exchange shall have the following duties and
4	responsibilities consistent with the Affordable Care Act:
5	* * *
6	(C) collecting premium payments made for qualified health benefit
7	plans from employers and individuals on a pretax basis, including collecting
8	premium payments from multiple employers of one individual for a single plan
9	covering that individual; and
10	(D)(C) creating a simplified and uniform system for the
11	administration of health benefits.
12	* * *
13	(6) Determining enrollee premiums and subsidies as required by the
14	Secretary of the U.S. Department of the Treasury or of the U.S. Department of
15	Health and Human Services and informing consumers of eligibility for
16	premiums and subsidies, including by providing an electronic calculator to
17	determine the actual cost of coverage after application of any premium tax
18	credit under Section 36B of the Internal Revenue Code of 1986 and any cost-

sharing reduction under Section 1402 of the Affordable Care Act.

1	* * * Medicaid Coverage for Adult Dental Services * * *
2	Sec. 5. 33 V.S.A. § 1992 is amended to read:
3	§ 1992. MEDICAID COVERAGE FOR ADULT DENTAL SERVICES
4	(a) Vermont Medicaid shall provide coverage for medically necessary
5	dental services provided by a dentist, dental therapist, or dental hygienist
6	working within the scope of the provider's license as follows:
7	(1) Up to two visits per calendar year for preventive Preventive services,
8	including prophylaxis and fluoride treatment, with no co-payment. These
9	services shall not be counted toward the annual maximum benefit amount set
10	forth in subdivision (2) of this subsection.
11	* * *
12	* * * Vermont Prescription Monitoring System; Access * * *
13	Sec. 6. 18 V.S.A. 4284(b)(1) is amended to read:
14	(b)(1) The Department shall provide only the following persons with access
15	to query the VPMS:
16	* * *
17	(C) the Medical Director of and Director of Pharmacy Services for
18	the Department of Vermont Health Access, and a designee of each Director
19	who reports directly to that Director, for the purposes of Medicaid quality

assurance, utilization, and federal monitoring requirements with respect to

1	Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV
2	controlled substance has been submitted;
3	* * *
4	* * * Prescription Drug Program Reporting * * *
5	Sec. 7. 33 V.S.A. § 2001 is amended to read:
6	§ 2001. LEGISLATIVE OVERSIGHT
7	(a) In connection with the Pharmacy Best Practices and Cost Control
8	Program, the Commissioner of Vermont Health Access shall report for review
9	by the House Committees on Appropriations, on Health Care, and on Human
10	Services and the Senate Committees on Appropriations and on Health and
11	Welfare prior to any modifications:
12	(1) the compilation that constitutes the preferred drug list or list of drugs
13	subject to prior authorization or any other utilization review procedures;
14	(2) any utilization review procedures, including any prior authorization
15	<del>procedures; and</del>
16	(3) the procedures by which drugs will be identified as preferred on the
17	preferred drug list, and the procedures by which drugs will be selected for prior
18	authorization or any other utilization review procedure.
19	(b) The Committees shall closely monitor implementation of the preferred
20	drug list and utilization review procedures to ensure that the consumer
21	protection standards enacted pursuant to section 1999 of this title are not

1	diminished as a result of implementing the preferred drug list and the
2	utilization review procedures, including any unnecessary delay in access to
3	appropriate medications. The Committees shall ensure that all affected
4	interests, including consumers, health care providers, pharmacists, and others
5	with pharmaceutical expertise have an opportunity to comment on the
6	preferred drug list and procedures reviewed under this subsection.
7	(e) The Notwithstanding the provisions of 2 V.S.A. § 20(d), the
8	Commissioner of Vermont Health Access shall report annually on or before
9	October 30 to the House Committees on Appropriations, on Health Care, and
10	on Human Services and the Senate Committees on Appropriations and on
11	Health and Welfare concerning the Pharmacy Best Practices and Cost Control
12	Program and the operation of Vermont's pharmaceutical assistance programs
13	for the most recent State fiscal year. Topics covered in the report shall include:
14	(1) issues related to drug cost and utilization;
15	(2) the effect of national trends on the pharmacy program;
16	(3) comparisons to other states;
17	(4) the Department's administration of Vermont's pharmaceutical
18	assistance programs;
19	(5) the Department's use of prior authorization requirements for
20	prescription drugs; and

1	(6) decisions made by the Department's Drug Utilization Review Board
2	in relation to both drug utilization review efforts and the placement of drugs on
3	the Department's preferred drug list.
4	(d) [Repealed.]
5	(e)(b)(1) [Repealed.]
6	(2) The Commissioner shall not enter into a contract with a pharmacy
7	benefit manager unless the pharmacy benefit manager has agreed to disclose to
8	the Commissioner the terms and the financial impact on Vermont and on
9	Vermont beneficiaries of:
10	* * *
11	(3)(2) The Commissioner shall not enter into a contract with a pharmacy
12	benefit manager who has entered into an agreement or engaged in a practice
13	described in subdivision $(2)(1)$ of this subsection, unless the Commissioner
14	determines that the agreement or practice furthers the financial interests of
15	Vermont and does not adversely affect the medical interests of Vermont
16	beneficiaries.
17	Sec. 8. 33 V.S.A. § 2081 is amended to read:
18	§ 2081. RULES AND LEGISLATIVE OVERSIGHT RULEMAKING
19	(a) The Agency of Human Services shall adopt rules necessary to
20	implement and administer the provisions of this subchapter, including

standards and schedules establishing coverage and exclusion of

1	pharmaceuticals and maximum quantities of pharmaceuticals to be dispensed,
2	and to comply with the requirements of the Medicare Modernization Act. The
3	Agency of Human Services shall submit the proposed rule to the Health Care
4	Oversight Committee. The Health Care Oversight Committee shall review and
5	advise on the Agency rules and policies developed under this subsection and
6	shall submit for consideration any recommendations to the joint Legislative
7	Committee on Administrative Rules.
8	(b) DVHA shall report on the status of the pharmaceutical assistance
9	programs established by this subchapter to the Health Care Oversight
10	Committee.
11	* * * Effective Dates * * *
12	Sec. 9. EFFECTIVE DATES
13	(a) Secs. 3 (Exchange plan premium processing; purpose) and 4 (33 V.S.A.
14	§ 1805) shall take effect on October 1, 2021.
15	(b) The remaining sections shall take effect on passage.