

2019-2020 Bills Passed by the House Committee on Health Care

Presented by Jennifer Carbee
Office of Legislative Counsel
January 15, 2021

Act 15 (H.204): An act relating to miscellaneous provisions affecting navigators, Medicaid records, and the Department of Vermont Health Access

- Eliminates duty of Vermont Health Benefit Exchange navigators to help employers to establish certain federally authorized tax-advantaged plans
- Makes clarifying changes regarding confidentiality of Medicaid applications and records
- Transfers from DVHA to GMCB responsibility for preparing report due November 15, 2021 on impact of chiropractic and physical therapy co-payment limits on utilization of those services

Act 17 (S.53): An act relating to determining the proportion of health care spending allocated to primary care

- Directs GMCB and DVHA to:
 - Identify which health care providers and services constitute primary care
 - Determine percentage of health care spending currently allocated to primary care by certain public and private payers and by Vermont's health care system overall
 - Report percentages and related information by January 15, 2020

Act 19 (S.89): An act relating to allowing reflective health benefit plans at all metal levels

- Allows health insurers to offer nonqualified reflective health benefit plans to individuals and small groups at all metal levels if federal cost-sharing reduction payments to insurers are suspended discontinued
- Directs GMCB to ensure rates for some/all qualified health benefit plans (QHPs) offered through Vermont Health Benefit Exchange include funding to offset loss of federal cost-sharing reduction payments and that rates for reflective health benefit plans do not include such funding
- Instructs GMCB to ensure, to extent not expressly prohibited under federal law, that funding to offset loss of federal cost-sharing reduction payments is included exclusively in silver-level QHPs offered through Vermont Health Benefit Exchange

Act 26 (H.528): An act relating to the Rural Health Services Task Force

- Creates 14-member Rural Health Services Task Force to evaluate state of rural health care in Vermont and identify ways to sustain system and to ensure it provides access to affordable, high-quality health care services
 - Report due to the General Assembly by January 15, 2020
- Directs DMH to evaluate and determine mental health bed needs for residential programs across the State by geographic area and provider type
 - Report due to General Assembly by December 15, 2019
- Requires DMH, in collaboration with community service organizations, to initiate efforts to increase number of affordable housing opportunities for individuals with mental health needs by potential funding sources for supportive housing and maximizing the use of Section 8 vouchers
 - If funding is available to invest in affordable housing opportunities, expresses legislative intent that funds be used to create new options for affordable permanent housing around Vermont based on evidence-based supportive housing models

Act 43 (S.43): An act relating to limiting prior authorization requirements for medication-assisted treatment

- Prohibits health insurance plans from imposing prior authorization requirements for counseling and behavioral therapies associated with medication-assisted treatment and for prescription drugs for a patient receiving medication-assisted treatment if dosage prescribed is within FDA dosing recommendations
- Requires health insurance plans to ensure that at least one medication from each drug class approved by FDA for treatment of substance use disorder is available on lowest cost-sharing tier of plan's prescription drug formulary
- Requires DVHA to submit reports* to General Assembly annually between 2020 and 2022 regarding prior authorization processes for medication-assisted treatment in Medicaid

*2020 DVHA report available [here](#)

Act 52 (S.7): An act relating to social service integration with Vermont's health care system

- Requires AHS to submit a plan to the General Assembly by January 1, 2021 for coordinating the financing and delivery of Medicaid mental health and home-and community-based services with the all-payer financial target services
- Directs the GMCB to submit to the General Assembly a report by December 1, 2019 that evaluates the manner and degree to which social services are integrated into accountable care organizations (ACOs)
- Requires the Director of Trauma Prevention and Resilience Development to serve as a resource in ensuring that new models used by community social service providers are aligned with the State's goals for trauma-informed prevention and resilience

Act 53 (S.31): An act relating to informed health care financial decision making and the consent policy for the Vermont Health Information Exchange

- Hospital and ambulatory surgical center patients must receive itemized, detailed, and understandable explanations of charges and information about financial assistance and billing and collections practices
- Requires GMCB to collect and review certain data from psychiatric hospitals, examine health care price transparency initiatives in other states, and recommend potential modifications to health care billing processes
 - GMCB [report](#) on transparency initiatives and billing processes due November 15, 2019
- As of March 1, 2020, patients' electronic health information in Vermont Health Information Exchange will be accessible to health care facilities, health care professionals, and public and private payers unless patient affirmatively opts not to have information shared in that manner
 - DVHA must administer stakeholder process to develop implementation strategy for opt-out consent policy and provide updates to General Assembly and GMCB by [Aug. 1, 2019](#) and [Nov. 1, 2019](#), with final report due by [Jan. 15, 2020](#)

Act 54 (S.41): An act relating to regulating entities that administer tax-advantaged accounts for health-related expenses

- Directs Commissioner of Financial Regulation to adopt rules to license and regulate entities administering or proposing to administer one or more health reimbursement arrangements, health savings accounts, flexible spending accounts, or similar tax-advantaged accounts for health-related expenses
- Establishes \$600 initial licensing fee and \$600 renewal fee to be paid once every three years
- Requires Department of Financial Regulation to provide update on its rulemaking process by February 15, 2020 and to adopt final rule by September 1, 2020

Act 55 (S.73): An act relating to licensure of ambulatory surgical centers

- Establishes licensure requirements for ambulatory surgical centers
- Requires GMCB to collect and review certain data from ambulatory surgical centers until January 16, 2026 and to describe its oversight of the centers in the Board's 2021–2026 annual reports
- Specifies that GMCB is not required to collect, review, or report further data on an ambulatory surgical center that was in operation on January 1, 2019 following submission of GMCB's 2023 annual report

Act 63 (H.524): An act relating to health insurance and the individual mandate

- Vermont income tax filers must indicate whether maintained minimum essential coverage (MEC) or were exempt
 - Anyone who indicates they had MEC must provide statement of coverage to Dept. of Taxes upon request
 - Directs DVHA to use information from Dept. of Taxes about people without MEC to provide targeted outreach to help them find affordable and appropriate coverage
- Adds consumer protections from ACA to Vermont law:
 - Ban on preexisting condition exclusions
 - Annual limits on cost-sharing
 - Ban on annual/lifetime limits on dollar amount of essential health benefits
 - No cost-sharing for certain preventive services
 - Young adult coverage on parent's plan until 26 years of age
- Allows association health plans operating in 2019 to be renewed if allowed under federal law, but not to enroll new members
 - Prohibits new association plans for plan years 2020 and after
- Prohibits licensed brokers from accepting payment for enrolling Vermonters in arrangements involving sharing of health-related expenses that do not qualify as insurance under Vermont law
- Directs AHS to look at how to make health insurance more affordable, explore imposing higher Medicaid co-pays to provide insurance subsidies, and explore regional, publicly financed universal health care program with other states
 - [Report](#) due by Dec. 1, 2019
- Directs AHS to [recommend](#) by Dec. 1, 2019 whether insurance market structure should be modified

Act 87 (H.83): An relating to prohibiting female genital mutilation or cutting

- Prohibits the act of female genital mutilation or cutting
- Exceptions for:
 - medically necessary procedure performed by a health care professional
 - procedure performed by a health care professional, midwife, or trainee on person in labor or who has just given birth, for medical purposes connected with the labor or birth
- Imposes two- to 10-year term of imprisonment and \$500-20,000 fine for violating the statute

Act 91 (H.742): An act relating to Vermont's response to COVID-19 (health/human services provisions)

- Provides administrative and health care provider flexibility in responding to COVID-19 pandemic
- Allows AHS and GMCB to waive/modify certain regulatory processes and requirements as needed to prioritize direct patient care, allow flexible staffing, preserve provider sustainability
- Directs DFR to consider adopting emergency rules to:
 - expand insurance coverage and reduce out-of-pocket costs for COVID-19 diagnosis, treatment, and prevention
 - modify or suspend deductible requirements for prescription drugs
 - expand access/reimbursement for health care services delivered remotely, including by audio-only telephone
- Permits patients to refill maintenance medications early
- Allows pharmacists to extend prescriptions for maintenance medications and to substitute substantially equivalent prescription drug if prescribed medication unavailable
- Allows recently retired Vermont providers and providers licensed in other states to deliver health care services to Vermonters using telehealth, as part of staff of licensed facility, or under temporary license, and provides OPR/BMP flexibility to waive certain requirements during a state of emergency
- Expands health insurance coverage for telehealth, including teledentistry and services delivered by store-and-forward means and, until January 1, 2026, requiring health insurance plans to reimburse providers same amount for same services whether provided in person or by telemedicine
- Allows DCF Commissioner to use additional funds from FY2020 appropriation for Child Care Financial Assistance Program to help child care programs at risk of closing due to financial hardship

Act 103 (H.643) An act relating to banking and insurance [health care provisions]

- Specifies that Act 63 prohibitions on new association health plans (AHPs) and on AHPs enrolling new employer members do not apply to AHPs formed or eligible to form under federal law as was in effect in January 2017 (“Pathway 1” AHPs)
- Amends definition of “group insurance policy” for purposes of applying ACA’s consumer protections to group plans for consistency with federal definition of “group health plan” and clarifies that definition applies across all of those consumer protections

Act 123 (S.128): An act relating to physician assistant licensure

- Revises physician assistant (PA) licensure statutes, moves profession from supervised model—physician delegates duties to PA who is under physician’s supervision pursuant to delegation agreement—to collaborative practice model—physician, either independently or on behalf of group practice/facility, enters practice agreement with PA
- PAs are responsible for own medical decision making; existence of practice agreement alone does not make participating physician legally liable for PA’s actions or inactions
- PAs are to be considered primary care providers when practicing in specialties for which physicians are considered primary care providers
- Repeals statute requiring physician/clinic/hospital to post notice if uses PAs
- Requires health insurers and Medicaid to reimburse PAs for service if same service would be covered when delivered by physician
- Allows PAs to bill for and receive direct payment for their services
- Directs Department of Health to update BMP rules on PAs by July 1, 2021

Act 126 (H.438): An act relating to the Board of Medical Practice and the licensure of physicians and podiatrists

- Updates language/terminology relating to BMP and physician licensure
- Updates qualifications for physician licensure, revises triggers for when a licensee's employer must report unprofessional conduct to BMP
- Modifies provisions relating to BMP's powers and duties and to its complaint, investigation, and hearing processes
- Creates nondisciplinary financial penalty of up to \$250 for violations of statutes and BMP rules of administrative nature
- Requires BMP to post investigation-operations manual on its website by July 1, 2020
- Amends provisions relating to renewal of podiatrist licenses
- Adds BMP to existing description of professional licensing boards entitled to inspect prescription records related to regulated drugs
- Modifies BMP rulemaking requirement regarding maintenance of licensure rules for podiatrists, physicians, and physician assistants

Act 136 (H.965): An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund*

Appropriates \$326,850,000 (total) from Coronavirus Relief Fund (CRF) for health care- and human services-related expenses incurred as result of COVID-19 pandemic:

- Hazard pay program (\$28 million); report due by Jan. 15, 2021
- Health Care Provider Stabilization Grant Program (\$275 million); reports due by Aug. 1 and Oct. 1, 2020 and Jan. 15, 2021
- COVID-19-related health disparities (ELC grant + \$500,000); report due by Aug. 18, 2020
- Suicide prevention (potential SAMHSA grant anticipated but not received)
- Pathways Vermont peer warm line and outreach (\$200,000)
- Food insecurity (\$4.7 million)

*House Health Care did not take possession of bill but recommended language that was incorporated into the House Appropriations committee bill

Act 136 (H.965) (continued)

Additional CRF appropriations/provisions:

- Summer meals for schoolchildren (\$12 million from prior CRF appropriation); report due by Aug. 18, 2020
- Meals for older Vermonters and other vulnerable populations; report due by Aug. 18, 2020
- Restart grants for child care providers, summer camps, afterschool programs; parent child center COVID-19 costs; Children's Integrated Services (\$12 million); report due by Aug. 18, 2020
- Grants to vulnerable populations (\$2 million)
- Supports for new Americans, refugees, and immigrants (\$700,000)
- COVID-19 public health precautions on ANR land (\$3 million)
- Legislative Branch COVID-19 mitigation, including space and health and safety needs assessment and purchase of information technology equipment (\$750,000); report due by Aug. 19, 2020
- Dept. of Health assistance with reopening independent colleges

Act 140 (H.960): An act relating to miscellaneous health care provisions

- Requires GMCB budget review for psychiatric care hospitals not operated by State; gradual increase in scope with full review by hospital fiscal year 2024
- Requires limited GMCB budget review for designated and specialized service agencies
- Creates 23-member Mental Health Integration Council to help ensure all sectors of health care system are involved in integrating mental health in health care system
 - Meets every other month from Oct. 1, 2020 to Jan. 1, 2023
 - Progress report due Dec. 15, 2021; final report due Jan. 15, 2023
- Sets quality oversight measures as conditions of further State funding for Brattleboro Retreat and requires certain actions of DMH and Retreat to support proactive, continuous quality and practice improvement and ensure timely access to high-quality care
 - DMH report on patient experiences and quality of care at Retreat due Feb. 1, 2021
 - AHS and Retreat reports on improving communications and relations with Retreat employees due Oct. 1, 2020 (interim report) and Feb. 1, 2021 (final report)
- Expands VPharm coverage for Medicare beneficiaries 150-225% FPL, effective on later of Jan. 1, 2022 or receipt of federal approval

Act 140 (H.960) (continued)

- Requires health insurers to review their prior authorization requirements and eliminate as appropriate at least annually, with attestation of review due to DFR/GMCB annually starting Sept. 15, 2021
- DFR report due Jan. 15, 2022 on ways to increase use of tools in electronic health records to complete prior authorization requests for imaging and pharmacy services
- GMCB evaluation due Jan. 15, 2022 on opportunities for and obstacles to aligning prior authorization requirements under All-Payer ACO model
- Requires health insurers with >1,000 Vermont lives to start a “gold carding” pilot program for prior authorizations by Jan. 15, 2022; report due Jan. 15, 2023
- DVHA report on Medicaid’s clinical prior authorization requirements due Sept. 30, 2021
- Extends/expands certain Act 91 provisions allowing regulatory flexibility during/after COVID-19 pandemic
- Requires DFR working group on coverage for audio-only telephone services after COVID-19 pandemic; report due Dec. 1, 2020
- Directs VPQHC, Dept. of Public Service, and organizations representing health care providers and consumers to identify areas of Vermont with particular health care-related broadband needs and opportunities to use federal/other funds to increase access to clinically appropriate telehealth services

Act 155 (H.607): An act relating to increasing the supply of nurses and primary care providers in Vermont

- Amends requirements for health care workforce development strategic plan; requires Director of Health Care Reform to maintain plan in consultation with advisory group
 - Director must update plan; draft due to GMCB by July 1, 2021 for review/approval, plan to Legislature by Aug. 15, 2021
- Directs Dept. of Health, in consultation with AHEC at UVM College of Medicine, to establish primary care physician scholarship program
 - Scholarships cover medical school tuition for up to five 3rd-year and up to five 4th-year medical students who commit to practicing primary care in rural area of Vermont or in Vermont FQHC's service area, in setting/practice not owned by academic medical center
 - 2-year full-time/4-year half-time service obligation for each academic year of tuition covered
 - Appropriates \$608,419 in Global Commitment investment funds (State share is \$277,500) for FY2021
 - Directs AHS Secretary to identify funding sources for State match for future fiscal years; report due March 1, 2021
 - Primary care physician scholarship program is repealed on July 1, 2022
- Appropriates \$1,035,957 in Global Commitment investment funds (State share is \$472,500) for FY2021 for additional scholarships for nursing students under existing program administered by VSAC
 - First priority – students pursuing a practical nursing certificate; second priority – students pursuing associate's degree in nursing to be registered nurse; third priority – students pursuing bachelor of science degree in nursing
 - Applicants must have financial need, ≥ 2.5 GPA, and agree to work as nurse in Vermont for at least one year following licensure for each year of scholarship awarded
 - First preference is for students attending accredited postsecondary educational institution in Vermont
 - Directs Director of Health Care Reform to identify primary causes of Vermont's nursing workforce shortage and propose solutions to address them; report due March 1, 2021

Act 159 (H.795): An act relating to increasing hospital price transparency, hospital sustainability planning, provider sustainability and reimbursements, and regulators' access to information

- Requires GMCB to develop and maintain public, interactive, Internet-based price transparency dashboard to enable consumers to compare prices for certain health care services across Vermont
 - Report on progress in developing/implementing dashboard due Feb. 1, 2021
 - Dashboard demonstration and recommendations for future expansions of dashboard due Feb. 1, 2022
- Directs GMCB to consider ways to increase financial sustainability of Vermont hospitals to achieve population-based health improvements while maintaining community access to services
 - First update due Nov. 15, 2020; second update due April 1, 2021; final recommendations due Sept. 1, 2021 (possible extension to Nov. 15, 2021)
- Directs GMCB to identify processes for improving provider sustainability and increasing equity in reimbursement amounts among providers
 - Update due Nov. 15, 2020; identification of options with most potential due March 15, 2021
- Requires health insurers to provide to GMCB, upon GMCB request in connection with rate review, detailed information about payments to specific providers; proprietary information to be kept confidential
- Specifies that individually identifying information submitted to GMCB as part of hospital budget review must be kept confidential
- Allows GMCB to examine and discuss confidential information outside public hearing or meeting
- Clarifies DFR's emergency rulemaking authority for COVID-19 diagnosis, treatment, and prevention
- Delays date for first meeting of Mental Health Integration Council from Oct. 1, 2020 to Jan. 15, 2021

Act 154 (H.969): Certain health care- and human services-related budget provisions*

- Global Commitment waiver – Sec. E.301.3 (amending FY20 budget adjustment act) authorizes AHS Secretary to seek from CMS a no-change extension of Vermont’s Global Commitment to Health Medicaid Sec. 1115 demonstration for period Jan. 1, 2022-Dec. 31, 2023; if CMS does not approve, then authorization to seek extension for period Jan. 1, 2022 through Dec. 31, 2026 or earlier date
- Medicaid preferred drug list – Sec. E.307 allows DVHA to establish preferred drug list for HIV- and AIDS-related medications while allow patients to use drugs not on the list if clinically appropriate
- Insulin – Starting in 2022, Sec. E.307.1 requires health insurance plans to limit patients’ out-of-pocket exposure for prescription insulin medications to a total of \$100 per 30-day supply of all medications
- Mental Health Crisis Services & Data Collection: Sec. E.314.2 directs DMH, in collaboration with Director of Racial Equity, Mental Health Crisis Response Commission, and DPS, to explore strategies for collecting data related to persons accessing emergency services related to a mental health crisis (Report due Sept. 1, 2021)

* House Health Care did not take possession of the budget bill; these are provisions in the bill that may be of interest

Bills passed out of committee but not enacted

- H.723: An act relating to telehealth (but was included in Act 91)
- H.728: An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access