

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred House Bill No. 489
3 entitled “An act relating to miscellaneous provisions affecting health insurance
4 regulation” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 8 V.S.A. § 4062c is amended to read:

8 § 4062c. COMPLIANCE WITH FEDERAL LAW

9 (a) Except as otherwise provided in this title, health insurers, hospital ~~or~~
10 and medical service corporations, and health maintenance organizations that
11 issue, sell, renew, or offer health insurance coverage in Vermont shall comply
12 with the requirements of the Health Insurance Portability and Accountability
13 Act of 1996, as amended from time to time (42 U.S.C., Chapter 6A,
14 Subchapter XXV), and the Patient Protection and Affordable Care Act of 2010,
15 ~~Public Law~~ Pub. L. No. 111-148, as amended by the Health Care and
16 Education Reconciliation Act of 2010, ~~Public Law~~ Pub. L. No. 111-152. The
17 Commissioner shall enforce such requirements pursuant to ~~his or her~~ the
18 Commissioner’s authority under this title.

19 (b)(1) Health insurers, hospital and medical service corporations, health
20 maintenance organizations, and health care providers, as that term is defined in

1 18 V.S.A. § 9432, shall comply with the requirements of the No Surprises Act,
2 Pub. L. No. 116-260, Division BB, Title I, as amended from time to time.

3 (2) The Commissioner shall enforce the requirements of the No
4 Surprises Act as they apply to health insurers, hospital and medical service
5 corporations, health maintenance organizations, and health care providers, to
6 the extent permitted under federal law, pursuant to the Commissioner’s
7 authority under this title. The Commissioner may also refer cases of
8 noncompliance to the U.S. Department of Health and Human Services under
9 the terms of a collaborative enforcement agreement, or to the Office of the
10 Vermont Attorney General.

11 Sec. 2. NO SURPRISES ACT; PROVIDER OUTREACH

12 The Department of Financial Regulation, in collaboration with the
13 Departments of Health and of Vermont Health Access and professional
14 organizations representing health care providers, shall inform health care
15 providers of their responsibilities under the No Surprises Act.

16 Sec. 3. 8 V.S.A. § 4079 is amended to read:

17 § 4079. GROUP INSURANCE POLICIES; DEFINITIONS

18 Group health insurance is hereby declared to be that form of health
19 insurance covering one or more persons, with or without their dependents, and
20 issued upon the following basis:

1 (1)(A) Under a policy issued to an employer, who shall be deemed the
2 policyholder, insuring at least one employee of such employer, for the benefit
3 of persons other than the employer. The term “employees,” as used ~~herein~~ in
4 this section, shall be deemed to include the officers, managers, and employees
5 of the employer; the partners, if the employer is a partnership; the officers,
6 managers, and employees of subsidiary or affiliated corporations of a
7 corporation employer; and the individual proprietors, partners, and employees
8 of individuals and firms, the business of which is controlled by the insured
9 employer through stock ownership, contract, or otherwise. The term
10 “employer,” as used ~~herein~~ in this section, may be deemed to include any
11 municipal or governmental ~~corporation, unit, agency, or department thereof~~
12 ~~and the proper officers as such, of any unincorporated municipality or~~
13 ~~department thereof~~ entity or officer, or the appropriate officer for an
14 unincorporated town or gore or for the Unified Towns and Gores of Essex
15 County, as well as private individuals, partnerships, and corporations.

16 (B) In accordance with section 3368 of this title, an employer
17 domiciled in ~~another~~ a jurisdiction other than Vermont that has more than
18 25 certificate-holder employees whose principal worksite and domicile is in
19 Vermont and that is defined as a large group in its own jurisdiction and under
20 the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1304,
21 as amended by the Health Care and Education Reconciliation Act of 2010,

1 Pub. L. No. 111-152, may purchase insurance in the large group health
2 insurance market for its Vermont-domiciled certificate-holder employees.

3 (2)(A) ~~A~~ Under a policy issued:

4 (i) to an association, a trust, or one or more trustees of a fund
5 established, created, or maintained by one or more associations otherwise
6 eligible for the issuance of a policy under this subdivision (2) and maintained,
7 directly or indirectly, by one or more associations for the benefit of its
8 ~~members of one or more associations,~~ or a contract or plan issued by such an
9 association or trust; or

10 (ii) by a multiple employer welfare arrangement as defined in the
11 Employee Retirement Income Security Act of 1974, as amended.

12 (B)(i) The association or associations shall have:

13 ~~(A)(I) shall have~~ a minimum of 100 persons at the time of
14 incorporation or formation ~~if it has been incorporated or formed outside this~~
15 ~~State, and a minimum of 25 persons at the time of incorporation or formation if~~
16 ~~it has been incorporated or formed in this State;~~

17 ~~(B)(II) shall have~~ been organized and maintained in good faith for
18 purposes other than that of obtaining insurance;

19 ~~(C)(III) shall have~~ been in active existence for at least one year; and

20 ~~(D)(IV) shall have~~ a constitution and bylaws ~~which~~ that provide that:

1 ~~(i)~~(aa) the association or associations hold regular meetings not
2 less than annually to further purposes of the members;

3 ~~(ii)~~(bb) except for credit unions, the association or associations
4 collect dues or solicit contributions from members; and

5 ~~(iii)~~(cc) the members ~~have voting privileges and~~ constitute a
6 majority of the voting power of the association for all purposes and have
7 representation on the governing board and committees.

8 (ii)(I) The association or associations shall not be controlled by an
9 insurer, as evidenced by the operation of the association or associations.

10 (II) The following factors may be used as evidence to
11 determine whether an association is an insurer-operated association; provided,
12 however, that the presence or absence of one or more of these factors shall not
13 serve to limit or be dispositive of such a determination:

14 (aa) common board members, officers, executives, or
15 employees;

16 (bb) common ownership of the insurer and the association,
17 or of the association and another eligible group; and

18 (cc) common use of office space or equipment used by the
19 insurer to transact insurance.

20 (C) An association's members shall have a shared or common
21 purpose that is not primarily a business or customer relationship.

1 (D)(i) A policy issued by an association shall not insure persons other
2 than the members or employees of the association or associations, or
3 employees of members, or all of any class or classes of employees of the
4 association, associations, or members, together, in each case, with the
5 employees' or members' dependents, as applicable, for the benefit of persons
6 other than the employee's employer.

7 (ii) A policy issued by an association shall insure all eligible
8 persons, except those who reject coverage in writing.

9 (E) An association shall not use the solicitation of insurance as the
10 primary method of obtaining new members.

11 (F) If an insurer collects membership fees or dues on behalf of an
12 association, the insurer shall disclose to the members of the association that the
13 insurer is billing and collecting membership fees and dues on behalf of the
14 association.

15 (3)(A) ~~A~~ Under a policy issued to a trust, or to one or more trustees of a
16 fund established ~~or adopted~~ and maintained, directly or indirectly, by:

17 (i) two or more employers;

18 (ii) one or more labor unions or similar employee organizations;

19 or

20 (iii) one or more employers and one or more labor unions or
21 similar employee organizations.

1 affected insured, provided the decision to be reviewed requires the plan to
2 expend at least \$100.00 for the service and the decision by the plan is based on
3 one of the following reasons:

4 * * *

5 (5) The decision involves an adverse determination related to surprise
6 medical billing, as established under Section 2799A-1 or 2799A-2 of the
7 Public Health Service Act, including with respect to whether an item or service
8 that is the subject of the adverse determination is an item or service to which
9 Section 2799A-1 or 2799A-2 of the Public Health Service Act, or both,
10 applies.

11 * * *

12 Sec. 5. 18 V.S.A. § 9374(h)(5)(A) is amended to read:

13 (5)(A) Annually on or before September 15, the Board ~~and the~~
14 ~~Department of Financial Regulation~~ shall report to the House and Senate
15 Committees on Appropriations the total amount of all expenses eligible for
16 allocation pursuant to this subsection (h) during the preceding State fiscal year
17 and the total amount actually billed back to the regulated entities during the
18 same period. The provisions of 2 V.S.A. § 20(d) (expiration of required
19 reports) shall not apply to the report to be made under this subdivision.

1 Sec. 6. 18 V.S.A. § 9417(c) is amended to read:

2 (c) The Commissioner of Financial Regulation shall adopt rules pursuant to
3 3 V.S.A. chapter 25 to license and regulate, to the extent permitted under
4 federal law, entities administering or proposing to administer one or more
5 HRAs, HSAs, FSAs, or similar tax-advantaged accounts for health-related
6 expenses, or a combination of these, in this State. The rules shall include:

7 (1) ~~annual~~ licensure or registration filing requirements; and

8 (2) such requirements and qualifications for such entities as the
9 Commissioner determines necessary to protect Vermont consumers and
10 employers and to help ensure that funds are disbursed appropriately.

11 Sec. 7. 18 V.S.A. § 9701 is amended to read:

12 § 9701. DEFINITIONS

13 As used in this chapter:

14 * * *

15 (13) “Health care decision” means consent, refusal to consent, or
16 withdrawal of consent to any health care and includes consent to receive out-
17 of-network services.

18 * * *

1 Sec. 8. HEALTH INSURANCE PARITY IN RESIDENTIAL CARE FOR
2 CHILDREN AND YOUTH WORKING GROUP; REPORT

3 (a) Creation. There is created the Insurance Parity in Residential Care for
4 Children and Youth Working Group to increase access to appropriate
5 residential treatment for children and youth who are enrolled in commercial
6 health insurance.

7 (b) Membership. The Working Group shall be composed of the following
8 members:

9 (1) one or more representatives from the Department of Mental Health;

10 (2) one or more representatives from the Department for Children and
11 Families;

12 (3) one or more representatives from the Department of Financial
13 Regulation;

14 (4) one or more representatives from the Agency of Education;

15 (5) one or more representatives from the Department of Vermont Health
16 Access;

17 (6) two or more representatives from residential treatment programs,
18 including one funded as a private nonmedical institution for residential child
19 care and one funded through a designated or specialized service agency
20 bundled rate, selected by the Department of Mental Health in consultation with
21 the Department for Children and Families;

1 (7) two or more representatives from commercial health insurance
2 carriers, selected by the Department of Financial Regulation; and

3 (8) the Chief Health Advocate from the Office of the Health Care
4 Advocate or designee.

5 (c) Powers and duties. The Working Group shall:

6 (1) examine the barriers that make it difficult for children and youth to
7 access medically necessary residential treatment;

8 (2) identify the reasons that Vermont residential treatment programs are
9 resistant to becoming approved providers for private insurance;

10 (3) propose solutions to overcome the barriers and reasons identified
11 pursuant to subdivisions (1) and (2) of this subsection, including the possibility
12 of creating a common set of quality and utilization management criteria and
13 processes for private insurance and Medicaid-funded residential treatment; and

14 (4) explore solutions to streamline funding options for State-placed
15 private pay students by considering the provisions of 16 V.S.A. §§ 11 and
16 2950.

17 (d) Assistance. The Working Group shall have the administrative,
18 technical, and legal assistance of the Department of Financial Regulation.

19 (e) Report. On or before December 15, 2022, the Working Group shall
20 provide its findings and any recommendations for legislative action to the

1 House Committees on Health Care, on Human Services, and on Education and
2 the Senate Committees on Health and Welfare and on Education.

3 (f) Meetings.

4 (1) The Commissioner of Financial Regulation or designee shall be the
5 Chair and shall call the first meeting of the Working Group to occur on or
6 before June 15, 2022.

7 (2) A majority of the membership shall constitute a quorum.

8 (3) The Working Group shall cease to exist on December 15, 2022.

9 Sec. 9. EFFECTIVE DATE

10 This act shall take effect on July 1, 2022, except that Sec. 8 (Health
11 Insurance Parity in Residential Care for Children and Youth Working Group;
12 report) and this section shall take effect on passage.

13

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18 (Committee vote: _____)

19

20

Representative _____

21

FOR THE COMMITTEE