

1

S.37

2 An act relating to access to legally protected health care activity and
3 regulation of health care providers

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

5 * * * Definitions * * *

6 Sec. 1. 1 V.S.A. § 150 is added to read:

7 § 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

8 (a) “Gender-affirming health care services” means all supplies, care, and
9 services of a medical, behavioral health, mental health, surgical, psychiatric,
10 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature
11 relating to the treatment of gender dysphoria and gender incongruence.
12 “Gender-affirming health care services” does not include conversion therapy as
13 defined by 18 V.S.A. § 8351.

14 (b)(1) “Legally protected health care activity” means:

15 (A) the exercise and enjoyment, or attempted exercise and
16 enjoyment, by any person of rights to reproductive health care services or
17 gender-affirming health care services secured by this State;

18 (B) any act or omission undertaken to aid or encourage, or attempt to
19 aid or encourage, any person in the exercise and enjoyment, or attempted
20 exercise and enjoyment, of rights to reproductive health care services or
21 gender-affirming health care services secured by this State, provided that the

1 provision of such a health care service by a person duly licensed under the
2 laws of this State and physically present in this State shall be legally protected
3 if the service is permitted under the laws of this State, regardless of the
4 patient's location; or

5 (C) the provision, issuance, or use of, or enrollment in, insurance or
6 other health coverage for reproductive health care services or gender-affirming
7 health care services that are legal in this State, or any act to aid or encourage,
8 or attempt to aid or encourage, any person in the provision, issuance, or use of,
9 or enrollment in, insurance or other health coverage for those services,
10 regardless of the location of the insured or individual seeking insurance or
11 health coverage, if the insurance or health coverage is permitted under the laws
12 of this State.

13 (2) Except as provided in subdivision (3) of this subsection, the
14 protections applicable to "legally protected health care activity" shall not apply
15 to a lawsuit, judgment, or civil, criminal, or administrative action that is based
16 on conduct for which an action would exist under the laws of this State if the
17 course of conduct that forms the basis for liability had occurred entirely in this
18 State.

19 (3) Notwithstanding subdivision (2) of this subsection, the provision of a
20 health care service by a person duly licensed under the laws of this State and
21 physically present in this State shall be legally protected if the service is

1 permitted under the laws of this State, regardless of the patient’s location or
2 whether the health care provider is licensed in the state where the patient is
3 located at the time the service is rendered.

4 (c) “Reproductive health care services” means all supplies, care, and
5 services of a medical, behavioral health, mental health, surgical, psychiatric,
6 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature
7 relating to pregnancy, contraception, assisted reproduction, pregnancy loss
8 management, or the termination of a pregnancy.

9 * * * Medical Malpractice * * *

10 Sec. 2. 8 V.S.A. chapter 129 is amended to read:

11 CHAPTER 129. INSURANCE TRADE PRACTICES

12 * * *

13 § 4722. DEFINITIONS

14 * * *

15 (4)(A) “Abusive litigation” means litigation or other legal action to
16 deter, prevent, sanction, or punish any person engaging in legally protected
17 health care activity by:

18 (i) filing or prosecuting any action in any other state where
19 liability, in whole or part, directly or indirectly, is based on legally protected
20 health care activity that occurred in this State, including any action in which
21 liability is based on any theory of vicarious, joint, or several liability derived

1 therefrom; or

2 (ii) attempting to enforce any order or judgment issued in
3 connection with any such action by any party to the action or any person acting
4 on behalf of a party to the action.

5 (B) A lawsuit shall be considered to be based on conduct that
6 occurred in this State if any part of any act or omission involved in the course
7 of conduct that forms the basis for liability in the lawsuit occurs or is initiated
8 in this State, whether or not such act or omission is alleged or included in any
9 pleading or other filing in the lawsuit.

10 (5) “Legally protected health care activity” has the same meaning as in 1
11 V.S.A. § 150.

12 * * *

13 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
14 DECEPTIVE ACTS OR PRACTICES DEFINED

15 The following are hereby defined as unfair methods of competition or unfair
16 or deceptive acts or practices in the business of insurance:

17 * * *

18 (7) Unfair discrimination; arbitrary underwriting action.

19 (A) Making or permitting any unfair discrimination between insureds
20 of the same class and equal risk in the rates charged for any contract of
21 insurance, or in the dividends or other benefits payable thereon, or in any other

1 of the terms and conditions of such contracts.

2 * * *

3 (F)(i) Discriminating against a health care provider, as defined by
4 18 V.S.A. § 9496, or adjusting or otherwise calculating a health care provider's
5 risk classification or premium charges on the basis that:

6 (I) the health care provider provides or assists in the provision
7 of legally protected health care activity that is unlawful in another state;

8 (II) another state's laws create potential or actual liability for
9 that activity;

10 (III) abusive litigation against a provider concerning legally
11 protected health care activity resulted in a claim, settlement, or judgement
12 against the provider; or

13 (IV) the license of the provider has been disciplined in any way
14 by another state based solely on the provider's provision of legally protected
15 health care activity.

16 (ii) For purposes of this subdivision (F), it shall not be unfairly
17 discriminatory nor an arbitrary underwriting action against a health care
18 provider if the risk classifications, premium charges, or other underwriting
19 considerations are based on factors other than those listed in subdivision (i) of
20 this subdivision (F).

21 * * *

1 * * * Insurance Coverage * * *

2 Sec. 3. 8 V.S.A. § 4088m is added to read:

3 § 4088m. COVERAGE FOR GENDER-AFFIRMING HEALTH CARE
4 SERVICES

5 (a) Definitions. As used in this section:

6 (1) “Gender-affirming health care services” has the same meaning as in
7 1 V.S.A. § 150.

8 (2) “Health insurance plan” means Medicaid and any other public health
9 care assistance program, any individual or group health insurance policy, any
10 hospital or medical service corporation or health maintenance organization
11 subscriber contract, or any other health benefit plan offered, issued, or renewed
12 for any person in this State by a health insurer as defined by 18 V.S.A. § 9402.
13 For purposes of this section, health insurance plan includes any health benefit
14 plan offered or administered by the State or any subdivision or instrumentality
15 of the State. The term does not include benefit plans providing coverage for a
16 specific disease or other limited benefit coverage, except that it includes any
17 accident and sickness health plan.

18 (b) Coverage.

19 (1) A health insurance plan shall provide coverage for gender-affirming
20 health care services that:

21 (A) are medically necessary and clinically appropriate for the

1 individual's diagnosis or health condition; and

2 (B) are included in the State's essential health benefits benchmark
3 plan.

4 (2) Coverage provided pursuant to this section by Medicaid or any other
5 public health care assistance program shall comply with all federal
6 requirements imposed by the Centers for Medicare and Medicaid Services.

7 (3) Nothing in this section shall prohibit a health insurance plan from
8 providing greater coverage for gender-affirming health care services than is
9 required under this section.

10 (c) Cost sharing. A health insurance plan shall not impose greater
11 coinsurance, co-payment, deductible, or other cost-sharing requirements for
12 coverage of gender-affirming health care services than apply to the diagnosis
13 and treatment of any other physical or mental condition under the plan.

14 Sec. 4. 8 V.S.A. § 4099e is added to read:

15 § 4099e. COVERAGE FOR ABORTION AND ABORTION-RELATED

16 SERVICES

17 (a) Definitions. As used in this section:

18 (1) "Abortion" means any medical treatment intended to induce the
19 termination of, or to terminate, a clinically diagnosable pregnancy except for
20 the purpose of producing a live birth.

21 (2) "Health insurance plan" means Medicaid and any other public health

1 care assistance program, any individual or group health insurance policy, any
2 hospital or medical service corporation or health maintenance organization
3 subscriber contract, or any other health benefit plan offered, issued, or renewed
4 for any person in this State by a health insurer as defined by 18 V.S.A. § 9402.
5 For purposes of this section, health insurance plan shall include any health
6 benefit plan offered or administered by the State or any subdivision or
7 instrumentality of the State. The term shall not include benefit plans providing
8 coverage for a specific disease or other limited benefit coverage, except that it
9 shall include any accident and sickness health plan.

10 (b) Coverage. A health insurance plan shall provide coverage for abortion
11 and abortion-related care.

12 (c) Cost sharing. The coverage required by this section shall not be subject
13 to any co-payment, deductible, coinsurance, or other cost-sharing requirement
14 or additional charge, except:

15 (1) to the extent such coverage would disqualify a high-deductible
16 health plan from eligibility for a health savings account pursuant to 26 U.S.C.
17 § 223; and

18 (2) for coverage provided by Medicaid.

19 Sec. 5. STATE PLAN AMENDMENT

20 The Agency of Human Services shall seek a state plan amendment from the
21 Centers for Medicare and Medicaid Services or federal authorities if needed to

1 allow Vermont's Medicaid program to provide coverage consistent with this
2 act.

3 * * * Professional Regulation * * *

4 Sec. 6. 3 V.S.A. § 129a is amended to read:

5 § 129a. UNPROFESSIONAL CONDUCT

6 * * *

7 (f)(1) Health care providers. Notwithstanding subsection (e) of this section
8 or any other law to the contrary, no health care provider shall be subject to
9 professional disciplinary action by a board or the Director, nor shall a board or
10 the Director take adverse action on an application for certification, registration,
11 or licensure of a qualified health care provider, based solely on:

12 (A) the health care provider providing or assisting in the provision of
13 legally protected health care activity; or

14 (B) a criminal or civil action or disciplinary action against the health
15 care provider by a licensing board of another state based solely on the provider
16 providing or assisting in the provision of legally protected health care activity.

17 (2) Definitions. As used in this subsection:

18 (A) "Health care provider" has the same meaning as in 18 V.S.A.
19 § 9496.

20 (B) "Legally protected health care activity" has the same meaning as
21 in 1 V.S.A. § 150.

1 Sec. 7. 26 V.S.A. § 1354 is amended to read:

2 § 1354. UNPROFESSIONAL CONDUCT

3 * * *

4 (d)(1) Health care providers. Notwithstanding any other law to the
5 contrary, no health care provider shall be subject to professional disciplinary
6 action by the Board, nor shall the Board take adverse action on an application
7 for certification, registration, or licensure of a qualified health care provider,
8 based solely on:

9 (A) the health care provider providing or assisting in the provision of
10 legally protected health care activity; or

11 (B) a criminal or civil action or disciplinary action against the health
12 care provider by a licensing board of another state based solely on the provider
13 providing or assisting in the provision of legally protected health care activity.

14 (2) Definitions. As used in this subsection:

15 (A) “Health care provider” has the same meaning as in 18 V.S.A.

16 § 9496.

17 (B) “Legally protected health care activity” has the same meaning as
18 in 1 V.S.A. § 150.

1 * * * Pregnancy Centers * * *

2 Sec. 8. 9 V.S.A. chapter 63, subchapter 11 is added to read:

3 Subchapter 11. Pregnancy Services Center Fraud

4 § 2491. FINDINGS; LEGISLATIVE INTENT

5 (a) Findings. The General Assembly finds that:

6 (1) Centers that seek to counsel clients against abortion, often referred to
7 as crisis pregnancy centers or limited-services pregnancy centers, have become
8 common across the country, including in Vermont. Accurate information
9 about the services that a limited-services pregnancy center performs, in
10 addition to forthright acknowledgement of its limitations, is essential to enable
11 pregnant individuals in this State to make informed decisions about their care.
12 This includes individuals being informed of whether they are receiving
13 services from a licensed and qualified health care provider at a limited-services
14 pregnancy center, as this allows individuals to determine if they need to seek
15 medical care elsewhere in order to continue or terminate a pregnancy.

16 (2) Although some limited-services pregnancy centers openly
17 acknowledge in their advertising, on their websites, and at their facilities that
18 they neither provide abortions nor refer clients to other providers of abortion
19 services, others provide confusing and misleading information to pregnant
20 individuals contemplating abortion by leading those individuals to believe that
21 their facilities offer abortion services and unbiased counseling. Many limited-

1 services pregnancy centers have promoted patently false or biased medical
2 claims about abortion, pregnancy, contraception, and reproductive health care
3 providers.

4 (3) False and misleading advertising by centers that do not offer or refer
5 clients for abortion is of special concern to the State because of the time-
6 sensitive and constitutionally protected nature of the decision to continue or
7 terminate a pregnancy. When a pregnant individual is misled into believing
8 that a center offers services that it does not in fact offer or receives false or
9 misleading information regarding health care options, the individual loses time
10 crucial to the decision whether to terminate a pregnancy and may lose the
11 option to choose a particular method or to terminate a pregnancy at all.

12 (4) Telling the truth is how trained health care providers demonstrate
13 respect for patients, foster trust, promote self-determination, and cultivate an
14 environment where best practices in shared decision-making can flourish.
15 Without veracity in information and communication, it is difficult for
16 individuals to make informed, voluntary choices essential in fulfilling
17 autonomy-based obligations.

18 (5) Advertising strategies and educational information about health care
19 options that lack transparency, use misleading or ambiguous terminology,
20 misrepresent or obfuscate services provided, or provide factually inaccurate
21 information are a form of manipulation that disrespects individuals,

1 undermines trust, broadens health disparity, and can result in patient harm.

2 (b) Intent.

3 (1) It is the intent of the General Assembly to ensure that the public is
4 provided with accurate, factual information about the types of health care
5 services that are available to pregnant individuals in this State. The General
6 Assembly respects the constitutionally protected right of each individual to
7 personal reproductive autonomy, which includes the right to receive clear,
8 honest, and nonmisleading information about the individual's options and to
9 make informed, voluntary choices after considering all relevant information.

10 (2) The General Assembly respects the right of limited-services
11 pregnancy centers to counsel individuals against abortion, and nothing in this
12 subchapter should be construed to regulate, limit, or curtail such advocacy.

13 § 2492. DEFINITIONS

14 As used in this subchapter:

15 (1) "Abortion" means any medical treatment intended to induce the
16 termination of, or to terminate, a clinically diagnosable pregnancy except for
17 the purpose of producing a live birth.

18 (2) "Client" means an individual who is inquiring about or seeking
19 services at a pregnancy services center.

20 (3) "Emergency contraception" means any drug approved by the U.S.
21 Food and Drug Administration as a contraceptive method for use after sexual

1 intercourse, whether provided over the counter or by prescription.

2 (4) “Health information” means any oral or written information in any
3 form or medium that relates to health insurance or the past, present, or future
4 physical or mental health or condition of a client.

5 (5) “Limited-services pregnancy center” means a pregnancy services
6 center that does not directly provide, or provide referrals to clients, for
7 abortions or emergency contraception.

8 (6) “Pregnancy services center” means a facility, including a mobile
9 facility, where the primary purpose is to provide services to individuals who
10 are or may be pregnant and that either offers obstetric ultrasounds, obstetric
11 sonograms, or prenatal care to pregnant individuals or has the appearance of a
12 medical facility. A pregnancy services center has the appearance of a medical
13 facility if two or more of the following factors are present:

14 (A) The center offers pregnancy testing or pregnancy diagnosis, or
15 both.

16 (B) The center has staff or volunteers who wear medical attire or
17 uniforms.

18 (C) The center contains one or more examination tables.

19 (D) The center contains a private or semiprivate room or area
20 containing medical supplies or medical instruments.

21 (E) The center has staff or volunteers who collect health information

1 from clients.

2 (F) The center is located on the same premises as a State-licensed
3 medical facility or provider or shares facility space with a State-licensed
4 medical provider.

5 (7) “Premises” means land and improvements or appurtenances or any
6 part thereof.

7 § 2493. UNFAIR AND DECEPTIVE ACT

8 (a) It is an unfair and deceptive act and practice in commerce and a
9 violation of section 2453 of this title for any limited-services pregnancy center
10 to disseminate or cause to be disseminated to the public any advertising about
11 the services or proposed services performed at that center that is untrue or
12 clearly designed to mislead the public about the nature of services provided.
13 Advertising includes representations made directly to consumers; marketing
14 practices; communication in any print medium, such as newspapers,
15 magazines, mailers, or handouts; and any broadcast medium, such as television
16 or radio, telephone marketing, or advertising over the Internet such as through
17 websites and web ads. For purposes of this chapter, advertising or the
18 provision of services by a limited-services pregnancy center is an act in
19 commerce.

20 (b) The medical director of a pregnancy services center, or the individual
21 charged with supervising health care services provided by center staff or

1 volunteers at a pregnancy services center, shall be responsible, legally and
2 professionally, for the activities of staff and volunteers performing duties for
3 and on behalf of the pregnancy services center. The medical director or
4 individual shall ensure that the staff of the pregnancy services center, including
5 the medical director or individual, and any volunteers providing health care
6 services maintain a level of supervision, training, and practice consistent with
7 legal requirements established under Vermont law, including those set forth in
8 Title 26, and professional standards of practice. Failure to conduct or to ensure
9 that health care services are conducted in accordance with State law and
10 professional standards of practice may constitute unprofessional conduct under
11 3 V.S.A. § 129a and 26 V.S.A. § 1354.

12 (c) The Attorney General has the same authority to make rules, conduct
13 civil investigations, and bring civil actions with respect to violations of
14 subsection (a) of this section as provided under subchapter 1 of this chapter.

15 * * * Reports; Interstate Compacts * * *

16 Sec. 9. AGENCY OF HUMAN SERVICES; GREEN MOUNTAIN CARE
17 BOARD; ACCESS TO REPRODUCTIVE HEALTH AND
18 GENDER-AFFIRMING CARE SERVICES

19 (a) The Agency of Human Services shall include access to reproductive
20 health care services and access to gender-affirming health care services as
21 indicators for equitable access to health care in its Community Profiles of

1 Health and Well-Being analysis.

2 (b) The Green Mountain Care Board shall include reproductive health care
3 service and gender-affirming health care service needs in the Health Resource
4 Allocation Plan analysis pursuant to 18 V.S.A. § 9405.

5 Sec. 10. BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL
6 REGULATION; INTERSTATE COMPACTS; REPORT

7 On or before November 1, 2024, the Office of Professional Regulation, in
8 consultation with the Board of Medical Practice, shall submit a report to the
9 House Committee on Health Care and the Senate Committee on Health and
10 Welfare with findings and recommendations for legislative action to address
11 any concerns regarding the State's participation, or contemplated participation,
12 in interstate licensure compacts as a result of the provisions of this act,
13 including the State's participation in the Nurse Licensure Compact pursuant to
14 26 V.S.A. chapter 28, subchapter 5 and the Interstate Medical Licensure
15 Compact pursuant to 26 V.S.A. chapter 23, subchapter 3A.

16 Sec. 10a. 26 V.S.A. chapter 56 is amended to read:

17 CHAPTER 56. OUT-OF-STATE TELEHEALTH LICENSURE &
18 REGISTRATION AND INTERSTATE COMPACTS

19 Subchapter 1. Out-of-State Telehealth Licensure And Registration

20 * * *

21 Subchapter 2. Interstate Compacts; Health Care Provider Compacts

1 § 3071. HEALTH CARE PROVIDER COMPACTS; DIRECTION TO
2 VERMONT REPRESENTATIVES

3 (a) The General Assembly finds that a state's prohibition of or limitation on
4 the provision of gender-affirming health care services or reproductive health
5 care services, or both, as defined by 1 V.S.A. § 150, prohibits health care
6 providers from following health care best practices and is a failure on the part
7 of the state to provide health care services that are medically necessary and
8 clinically appropriate for its residents. Therefore, it is the General Assembly's
9 intent to protect the ability of professionals licensed, certified, or registered in
10 Vermont, and applicants from other member states seeking to practice a
11 profession in Vermont pursuant to an interstate compact or agreement, to have
12 the benefit of compacts and agreements while at the same time engaging in,
13 providing, or otherwise facilitating, personally or professionally, gender-
14 affirming health care and reproductive health care services.

15 (b) Vermont's representative or delegate for an interstate compact or
16 agreement related to health care shall seek an amendment or exception to the
17 compact or agreement language, rules, or bylaws, as necessary, so that if a
18 licensee is disciplined by another state solely for providing or assisting in the
19 provision of gender-affirming health care services or reproductive health care
20 services that would be legal and meet professional standards of care if
21 provided in Vermont, the compact or agreement does not require that Vermont

1 take professional disciplinary action against the licensee.

2 * * * Emergency Contraception * * *

3 Sec. 11. 26 V.S.A. chapter 36, subchapter 1 is amended to read:

4 Subchapter 1. General Provisions

5 * * *

6 § 2022. DEFINITIONS

7 As used in this chapter:

8 * * *

9 (22) “Emergency contraception” means any drug approved by the U.S.
10 Food and Drug Administration as a contraceptive method for use after sexual
11 intercourse, whether provided over the counter or by prescription.

12 § 2023. CLINICAL PHARMACY; PRESCRIBING

13 * * *

14 (b) A pharmacist may prescribe in the following contexts:

15 * * *

16 (2) State protocol.

17 (A) A pharmacist may prescribe, order, or administer in a manner
18 consistent with valid State protocols that are approved by the Commissioner of
19 Health after consultation with the Director of Professional Regulation and the
20 Board and the ability for public comment:

21 * * *

1 (ix) emergency prescribing of albuterol or glucagon while
2 contemporaneously contacting emergency services; ~~and~~

3 (x) tests for SARS-CoV for asymptomatic individuals or related
4 serology for individuals by entities holding a Certificate of Waiver pursuant to
5 the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a); and

6 (xi) emergency contraception.

7 * * *

8 Sec. 11a. 26 V.S.A. § 2077 is added to read:

9 § 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

10 (a) A retail or institutional drug outlet licensed under this chapter or a
11 postsecondary school, as defined in and subject to 16 V.S.A. § 176, may make
12 over-the-counter emergency contraception and other nonprescription drugs or
13 articles for the prevention of pregnancy or conception available through a
14 vending machine or similar device.

15 (b) The Board may adopt rules in accordance with 3 V.S.A. chapter 25 to
16 regulate the location, operation, utilization, and oversight of the vending
17 machines and similar devices described in subsection (a) of this section in a
18 manner that balances consumer access with appropriate safeguards for theft
19 prevention and safety.

1 * * * Higher Education; Health Care Services * * *

2 Sec. 12. 16 V.S.A. chapter 78 is added to read:

3 CHAPTER 78. ACCESS TO REPRODUCTIVE AND GENDER-
4 AFFIRMING HEALTH CARE SERVICES

5 § 2501. DEFINITIONS

6 As used in this chapter:

7 (1) “Gender-affirming health care readiness” means each institution’s
8 preparedness to provide gender-affirming health care services to students or
9 assist students in obtaining gender-affirming health care services, including
10 having in place equipment, protocols, patient educational materials,
11 informational websites, and training for staff; provided, however, that gender-
12 affirming health care readiness may include the provision of gender-affirming
13 health care services.

14 (2) “Gender-affirming health care services” has the same meaning as in
15 1 V.S.A. § 150.

16 (3) “Institution” means the University of Vermont or a college in the
17 Vermont State College system.

18 (4) “Medication abortion” means an abortion provided by medication
19 techniques.

20 (5) “Reproductive health care services” has the same meaning as in 1
21 V.S.A. § 150 and includes medication abortion.

1 (6) “Reproductive health care readiness” means each institution’s
2 preparedness to provide reproductive health care services to students or assist
3 students in obtaining reproductive health care services, including having in
4 place equipment, protocols, patient educational materials, informational
5 websites, and training for staff; provided, however, that reproductive health
6 care readiness may include the provision of reproductive health care services.

7 (7) “Telehealth” has the same meaning as in 26 V.S.A. § 3052.

8 § 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE
9 HEALTH CARE READINESS; REPORTS

10 (a) Each institution shall report to the Agency of Human Services annually,
11 on or before November 1, on the current status of its gender-affirming health
12 care and reproductive health care readiness, including:

13 (1) whether the institution has an operational health center on campus;

14 (2) whether the institution employs health care providers on campus;

15 (3) the types of gender-affirming health care services and reproductive
16 health care services that the institution offers to its students on campus and the
17 supports that the institution provides to students who receive those services;

18 (4) the institution’s efforts to assist students with obtaining gender-
19 affirming health care services and reproductive health care services from
20 licensed health care professionals through telehealth;

21 (5) the institution’s proximity to a hospital, clinic, or other facility that

1 provides gender-affirming health care services or reproductive health care
2 services, or both, that are not available to students on campus;

3 (6) the referral information that the institution provides regarding
4 facilities that offer gender-affirming health care services and reproductive
5 health care services that are not available to students on campus, including
6 information regarding the scope of the services that are available at each such
7 facility; and

8 (7) the availability, convenience, and cost of public transportation
9 between the institution and the closest facility that provides gender-affirming
10 health care services or reproductive health care services, or both, and whether
11 the institution provides transportation.

12 (b) On or before January 31 of each year, the Agency of Human Services
13 shall compile the materials submitted pursuant to subsection (a) of this section
14 and report to the House Committees on Education, on Health Care, and on
15 Human Services and the Senate Committees on Education and on Health and
16 Welfare on the status of gender-affirming health care and reproductive health
17 care readiness at Vermont's institutions.

18 Sec. 13. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE
19 HEALTH CARE READINESS; IMPLEMENTATION

20 Each institution shall submit its first report on the status of its gender-
21 affirming health care and reproductive health care readiness as required under

1 16 V.S.A. § 2502(a) to the Agency of Human Services on or before November
2 1, 2023, and the Agency shall provide its first legislative report on or before
3 January 31, 2024.

4 * * * Prohibition on Disclosure of Protected Health Information * * *

5 Sec. 14. 18 V.S.A. § 1881 is amended to read:

6 § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION

7 PROHIBITED

8 (a) As used in this section:

9 (1) “Business associate” has the same meaning as in 45 C.F.R.
10 § 160.103.

11 (2) “Covered entity” shall have has the same meaning as in 45 C.F.R.
12 § 160.103.

13 (3) “Legally protected health care activity” has the same meaning as in
14 1 V.S.A. § 150.

15 ~~(2)(4)~~ “Protected health information” shall have has the same meaning
16 as in 45 C.F.R. § 160.103.

17 (b) A covered entity or business associate shall not disclose protected
18 health information unless the disclosure is permitted under the Health
19 Insurance Portability and Accountability Act of 1996 (HIPAA).

20 (c) In order to protect patients and providers who engage in legally
21 protected health care activity, a covered entity or business associate shall not

1 disclose protected health information related to a legally protected health care
2 activity for use in a civil or criminal action; a proceeding preliminary to a civil
3 or criminal action; or a probate, legislative, or administrative proceeding unless
4 the disclosure meets one or more of the following conditions:

5 (1) The disclosure is authorized by the patient or the patient's
6 conservator, guardian, or other authorized legal representative.

7 (2) The disclosure is specifically required by federal law, Vermont law,
8 or rules adopted by the Vermont Supreme Court.

9 (3) The disclosure is ordered by a court of competent jurisdiction
10 pursuant to federal law, Vermont law, or rules adopted by the Vermont
11 Supreme Court. An order compelling disclosure under this subdivision shall
12 include the court's determination that good cause exists to require disclosure of
13 the information related to legally protected health care activity.

14 (4) The disclosure is to be made to a person designated by the covered
15 entity or business associate and will be used solely in the defense of the
16 covered entity or business associate against a claim that has been made, or
17 there is a reasonable belief will be made, against the covered entity or business
18 associate in a civil or criminal action, a proceeding preliminary to a civil or
19 criminal action, or a probate, legislative, or administrative proceeding.

20 (5) The disclosure is to Vermont's Board of Medical Practice or Office
21 of Professional Regulation, as applicable, in connection with a bona fide

1 investigation in Vermont of a licensed, certified, or registered health care
2 provider.

3 * * * Effective Dates * * *

4 Sec. 15. EFFECTIVE DATES

5 (a) This section, Sec. 1 (definitions), Sec. 2 (medical malpractice), Secs. 6
6 and 7 (unprofessional conduct), Sec. 8 (pregnancy services centers), Secs. 9
7 and 10 (reports), Sec. 11a (emergency contraception; vending machines), Secs.
8 12 and 13 (gender-affirming health care and reproductive health care
9 readiness; reports), and Sec. 14 (prohibition on disclosure of protected health
10 information) shall take effect on passage.

11 (b) Secs. 3 and 4 (insurance coverage) shall take effect on January 1, 2024
12 and shall apply to all health insurance plans issued on and after January 1,
13 2024 on such date as a health insurer offers, issues, or renews the health
14 insurance plan, but in no event later than January 1, 2025.

15 (c) Sec. 5 (state plan amendment) shall take effect on January 1, 2024,
16 except that the Agency of Human Services shall submit its request for approval
17 of Medicaid coverage of the services prescribed in Sec. 4 of this act, if needed,
18 to the Centers for Medicare and Medicaid Services on or before July 1, 2023,
19 and the Medicaid coverage shall begin on the later of the date of approval or
20 January 1, 2024.

21 (d) Sec. 10a (interstate compacts; state representatives) shall take effect on

1 July 1, 2023.

2 (e) Sec. 11 (emergency contraception) shall take effect on or before

3 September 1, 2023, on such date as the Commissioner of Health approves the

4 State protocol.