

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred Senate Bill No. 37  
3 entitled “An act relating to access to legally protected health care activity and  
4 regulation of health care providers” respectfully reports that it has considered  
5 the same and recommends that the House propose to the Senate that the bill be  
6 amended by striking out all after the enacting clause and inserting in lieu  
7 thereof the following:

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

9 § 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

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

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

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

20 (B) any act or omission undertaken to aid or encourage, or attempt to  
21 aid or encourage, any person in the exercise and enjoyment, or attempted

1 exercise and enjoyment, of rights to reproductive health care services or  
2 gender-affirming health care services secured by this State, provided that the  
3 provision of such a health care service by a person duly licensed under the  
4 laws of this State and physically present in this State shall be legally protected  
5 if the service is permitted under the laws of this State, regardless of the  
6 patient’s location; or

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

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

21 (3) Notwithstanding subdivision (2) of this subsection, the provision of a

1 health care service by a person duly licensed under the laws of this State and  
2 physically present in this State shall be legally protected if the service is  
3 permitted under the laws of this State, regardless of the patient’s location or  
4 whether the health care provider is licensed in the state where the patient is  
5 located at the time the service is rendered.

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

11 \* \* \* Medical Malpractice \* \* \*

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

13 CHAPTER 129. INSURANCE TRADE PRACTICES

14 \* \* \*

15 § 4722. DEFINITIONS

16 \* \* \*

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

20 (i) filing or prosecuting any action in any other state where  
21 liability, in whole or part, directly or indirectly, is based on legally protected

1 health care activity that occurred in this State, including any action in which  
2 liability is based on any theory of vicarious, joint, or several liability derived  
3 therefrom; or

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

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

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

14 \* \* \*

15 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR

16 DECEPTIVE ACTS OR PRACTICES DEFINED

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

19 \* \* \*

20 (7) Unfair discrimination; arbitrary underwriting action.

21 (A) Making or permitting any unfair discrimination between insureds

1 of the same class and equal risk in the rates charged for any contract of  
2 insurance, or in the dividends or other benefits payable thereon, or in any other  
3 of the terms and conditions of such contracts.

4 \* \* \*

5 (F)(i) Discriminating against a health care provider, as defined by  
6 18 V.S.A. § 9496, or adjusting or otherwise calculating a health care provider's  
7 risk classification or premium charges on the basis that:

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

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

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

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

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

1 this subdivision (F).

2 \* \* \*

3 \* \* \* Insurance Coverage \* \* \*

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

5 § 4088m. COVERAGE FOR GENDER-AFFIRMING HEALTH CARE

6 SERVICES

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

8 (1) “Gender-affirming health care services” has the same meaning as in  
9 1 V.S.A. § 150.

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

20 (b) Coverage.

21 (1) A health insurance plan shall provide coverage for gender-affirming

1 health care services that:

2 (A) are medically necessary and clinically appropriate for the  
3 individual’s diagnosis or health condition; and

4 (B) are included in the State’s essential health benefits benchmark  
5 plan.

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

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

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

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

17 § 4099e. COVERAGE FOR ABORTION AND ABORTION-RELATED

18 SERVICES

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

20 (1) “Abortion” means any medical treatment intended to induce the  
21 termination of, or to terminate, a clinically diagnosable pregnancy except for

1 the purpose of producing a live birth.

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

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

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

17 (1) to the extent such coverage would disqualify a high-deductible  
18 health plan from eligibility for a health savings account pursuant to 26 U.S.C.  
19 § 223; and

20 (2) for coverage provided by Medicaid.

21 Sec. 5. STATE PLAN AMENDMENT





1 **are purported to reverse the effects of a medication abortion.**

2 \* \* \*

3 (f)(1) Health care providers. Notwithstanding subsection (e) of this section  
4 or any other law to the contrary, no health care provider **who is certified,**  
5 **registered, or licensed in Vermont** shall be subject to professional  
6 disciplinary action by a board or the Director, nor shall a board or the Director  
7 take adverse action on an application for certification, registration, or licensure  
8 of a qualified health care provider, 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 **in another state**  
12 against the health care provider **by a licensing board of another state, that is**  
13 based solely on the provider providing or assisting in the provision of legally  
14 protected health care activity.

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

16 (A) “Health care provider” **has the same meaning as in 18 V.S.A.**  
17 **§ 9496 means a person who provides professional health care services to**  
18 **an individual during that individual’s medical care, treatment, or**  
19 **confinement.**

20 (B) **“Health care services” means services for the diagnosis,**  
21 **prevention, treatment, cure, or relief of a physical or mental health**

1 **condition, including procedures, products, devices, and medications.**

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

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

5 § 1354. UNPROFESSIONAL CONDUCT

6 \* \* \*

7 (d)(1) Health care providers. Notwithstanding any other law to the  
8 contrary, no health care provider **who is certified, registered, or licensed in**  
9 **Vermont** shall be subject to professional disciplinary action by the Board, nor  
10 shall the Board take adverse action on an application for certification,  
11 registration, 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 **in another state**  
15 against the health care provider **by a licensing board of another state, that is**  
16 based solely on the provider providing or assisting in the provision of legally  
17 protected health care activity.

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

19 (A) “Health care provider” **has the same meaning as in 18 V.S.A.**  
20 **§ 9496 means a person who provides professional health care services to**  
21 **an individual during that individual’s medical care, treatment, or**

1 **confinement.**

2 (B) **“Health care services” means services for the diagnosis,**  
3 **prevention, treatment, cure, or relief of a physical or mental health**  
4 **condition, including procedures, products, devices, and medications.**

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

7 \* \* \* Pregnancy Centers \* \* \*

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

9 Subchapter 11. Pregnancy Services Center Fraud

10 § 2491. FINDINGS; LEGISLATIVE INTENT

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

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

1           (2) Although some limited-services pregnancy centers openly  
2           acknowledge in their advertising, on their websites, and at their facilities that  
3           they neither provide abortions nor refer clients to other providers of abortion  
4           services, others provide confusing and misleading information to pregnant  
5           individuals contemplating abortion by leading those individuals to believe that  
6           their facilities offer abortion services and unbiased counseling. Many limited-  
7           services pregnancy centers have promoted patently false or biased medical  
8           claims about abortion, pregnancy, contraception, and reproductive health care  
9           providers.

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

18           (4) Telling the truth is how trained health care providers demonstrate  
19           respect for patients, foster trust, promote self-determination, and cultivate an  
20           environment where best practices in shared decision-making can flourish.  
21           Without veracity in information and communication, it is difficult for

1 individuals to make informed, voluntary choices essential in fulfilling  
2 autonomy-based obligations.

3 (5) Advertising strategies and educational information about health care  
4 options that lack transparency, use misleading or ambiguous terminology,  
5 misrepresent or obfuscate services provided, or provide factually inaccurate  
6 information are a form of manipulation that disrespects individuals,  
7 undermines trust, broadens health disparity, and can result in patient harm.

8 (b) Intent.

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

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

19 § 2492. DEFINITIONS

20 As used in this subchapter:

21 (1) “Abortion” means any medical treatment intended to induce the

1 termination of, or to terminate, a clinically diagnosable pregnancy except for  
2 the purpose of producing a live birth.

3 (2) “Client” means an individual who is inquiring about or seeking  
4 services at a pregnancy services center.

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

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

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

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

20 (A) The center offers pregnancy testing or pregnancy diagnosis, or  
21 both.

1           (B) The center has staff or volunteers who wear medical attire or  
2           uniforms.

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

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

6           (E) The center has staff or volunteers who collect health information  
7           from clients.

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

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

13          § 2493. UNFAIR AND DECEPTIVE ACT

14          (a) It is an unfair and deceptive act and practice in commerce and a  
15          violation of section 2453 of this title for any limited-services pregnancy center  
16          to disseminate or cause to be disseminated to the public any advertising about  
17          the services or proposed services performed at that center that is untrue or  
18          clearly designed to mislead the public about the nature of services provided.  
19          Advertising includes representations made directly to consumers; marketing  
20          practices; communication in any print medium, such as newspapers,  
21          magazines, mailers, or handouts; and any broadcast medium, such as television



1 or radio, telephone marketing, or advertising over the Internet such as through  
2 websites and web ads. For purposes of this chapter, advertising or the  
3 provision of services by a limited-services pregnancy center is an act in  
4 commerce.

5 (b) The medical director of a pregnancy services center, or the individual  
6 charged with supervising health care services provided by center staff or  
7 volunteers at a pregnancy services center, shall be responsible, legally and  
8 professionally, for the activities of staff and volunteers performing duties for  
9 and on behalf of the pregnancy services center. The medical director or  
10 individual shall ensure that the staff of the pregnancy services center, including  
11 the medical director or individual, and any volunteers providing health care  
12 services maintain a level of supervision, training, and practice consistent with  
13 legal requirements established under Vermont law, including those set forth in  
14 Title 26, and professional standards of practice. Failure to conduct or to ensure  
15 that health care services are conducted in accordance with State law and  
16 professional standards of practice may constitute unprofessional conduct under  
17 3 V.S.A. § 129a and 26 V.S.A. § 1354. **Health care providers licensed**  
18 **under Title 26 of the Vermont Statutes Annotated who are employed by,**  
19 **contracted to provide services for or on behalf of, or volunteer to provide**  
20 **services at a limited-services pregnancy center shall be responsible for**  
21 **conducting and providing health care services, information, and**

1 **counseling at the center. The failure of a health care professional licensed**  
2 **under Title 26 of the Vermont Statutes Annotated to conduct or to ensure**  
3 **that health care services, information, and counseling at the limited-**  
4 **services pregnancy services center are conducted in accordance with State**  
5 **law and professional standards of practice may constitute unprofessional**  
6 **conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354.**

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

10 \* \* \* Reports; Interstate Compacts \* \* \*

11 Sec. 9. AGENCY OF HUMAN SERVICES; GREEN MOUNTAIN CARE  
12 BOARD; ACCESS TO REPRODUCTIVE HEALTH AND  
13 GENDER-AFFIRMING CARE SERVICES

14 (a) The Agency of Human Services shall include access to reproductive  
15 health care services and access to gender-affirming health care services as  
16 indicators for equitable access to health care in its Community Profiles of  
17 Health and Well-Being analysis.

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

21 Sec. 10. BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL



1 providers from following health care best practices and is a failure on the part  
2 of the state to provide health care services that are medically necessary and  
3 clinically appropriate for its residents. Therefore, it is the General Assembly’s  
4 intent to protect the ability of professionals licensed, certified, or registered in  
5 Vermont, and **applicants professionals** from other member states seeking to  
6 practice a profession in Vermont pursuant to an interstate compact or  
7 agreement, to have the benefit of compacts and agreements while at the same  
8 time engaging in, providing, or otherwise facilitating, personally or  
9 professionally, gender-affirming health care and reproductive health care  
10 services.

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

20 \* \* \* Emergency Contraception \* \* \*

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

1 Subchapter 1. General Provisions

2 \* \* \*

3 § 2022. DEFINITIONS

4 As used in this chapter:

5 \* \* \*

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

9 § 2023. CLINICAL PHARMACY; PRESCRIBING

10 \* \* \*

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

12 \* \* \*

13 (2) State protocol.

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

18 \* \* \*

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

21 (x) tests for SARS-CoV for asymptomatic individuals or related

1 serology for individuals by entities holding a Certificate of Waiver pursuant to  
2 the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a); and  
3 (xi) emergency contraception.

4 \* \* \*

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

6 § 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

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

12 (b) **The Notwithstanding any provision of subsection 2032(h) of this**  
13 **chapter to the contrary, the** Board may adopt rules in accordance with 3  
14 V.S.A. chapter 25 to regulate the location, operation, utilization, and oversight  
15 of the vending machines and similar devices described in subsection (a) of this  
16 section in a manner that balances consumer access with appropriate safeguards  
17 for theft prevention and safety.

18 \* \* \* Higher Education; Health Care Services \* \* \*

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

20 CHAPTER 78. ACCESS TO REPRODUCTIVE AND GENDER-  
21 AFFIRMING HEALTH CARE SERVICES

1     § 2501. DEFINITIONS

2             As used in this chapter:

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

10            (2) “Gender-affirming health care services” has the same meaning as in  
11            1 V.S.A. § 150.

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

14            (4) “Medication abortion” means an abortion provided by medication  
15            techniques.

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

18            (6) “Reproductive health care readiness” means each institution’s  
19            preparedness to provide reproductive health care services to students or assist  
20            students in obtaining reproductive health care services, including having in  
21            place equipment, protocols, patient educational materials, informational

1 websites, and training for staff; provided, however, that reproductive health  
2 care readiness may include the provision of reproductive health care services.

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

4 § 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE  
5 HEALTH CARE READINESS; REPORTS

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

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

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

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

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

17 (5) the institution’s proximity to a hospital, clinic, or other facility that  
18 provides gender-affirming health care services or reproductive health care  
19 services, or both, that are not available to students on campus;

20 (6) the **referral** information that the institution provides regarding  
21 facilities that offer gender-affirming health care services and reproductive



1 health care services that are not available to students on campus, including  
2 information regarding the scope of the services that are available at each such  
3 facility; and

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

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

14 Sec. 13. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE  
15 HEALTH CARE READINESS; IMPLEMENTATION

16 Each institution shall submit its first report on the status of its gender-  
17 affirming health care and reproductive health care readiness as required under  
18 16 V.S.A. § 2502(a) to the Agency of Human Services on or before November  
19 1, 2023, and the Agency shall provide its first legislative report on or before  
20 January 31, 2024.

21 \* \* \* Prohibition on Disclosure of Protected Health Information \* \* \*

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

2 § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION

3 PROHIBITED

4 (a) As used in this section:

5 (1) “Business associate” has the same meaning as in 45 C.F.R.

6 § 160.103.

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

8 § 160.103.

9 (3) “Legally protected health care activity” has the same meaning as in

10 1 V.S.A. § 150.

11 (2)(4) “Protected health information” shall have has the same meaning

12 as in 45 C.F.R. § 160.103.

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

14 (b) A covered entity or business associate shall not disclose protected

15 health information unless the disclosure is permitted under the Health

16 Insurance Portability and Accountability Act of 1996 (HIPAA).

17 (c) In order to protect patients and providers who engage in legally

18 protected health care activity, a covered entity or business associate shall not

19 disclose protected health information related to a legally protected health care

20 activity for use in a civil or criminal action; a proceeding preliminary to a civil

21 or criminal action; or a probate, legislative, or administrative proceeding unless

1 the disclosure meets one or more of the following conditions:

2 (1) The disclosure is authorized by the patient or the patient’s  
3 conservator, guardian, or other authorized legal representative.

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

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

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

17 (5) The disclosure is to Vermont’s Board of Medical Practice or Office  
18 of Professional Regulation, as applicable, in connection with a bona fide  
19 investigation in Vermont of a licensed, certified, or registered health care  
20 provider **or a bona fide investigation of whether an individual who is not**  
21 **licensed, certified, or registered to practice a health care profession in**

1 **Vermont engaged in unauthorized practice in this State, whether in**  
2 **person or through telehealth.**

3 **(6) The disclosure is to the Vermont Department of Health or the**  
4 **Vermont Department of Disabilities, Aging, and Independent Living, or**  
5 **both, in connection with a bona fide investigation of a licensed health care**  
6 **facility in Vermont.**

7 \* \* \* Effective Dates \* \* \*

8 Sec. 15. EFFECTIVE DATES

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

15 (b) Secs. 3 and 4 (insurance coverage) shall take effect on January 1, 2024  
16 and shall apply to all health insurance plans issued on and after January 1,  
17 2024 on such date as a health insurer offers, issues, or renews the health  
18 insurance plan, but in no event later than January 1, 2025.

19 (c) Sec. 5 (state plan amendment) shall take effect on January 1, 2024,  
20 except that the Agency of Human Services shall submit its request for approval  
21 of Medicaid coverage of the services prescribed in Sec. 4 of this act, if needed,

1 to the Centers for Medicare and Medicaid Services on or before July 1, 2023,  
2 and the Medicaid coverage shall begin on the later of the date of approval or  
3 January 1, 2024.

4 (d) Sec. 10a (interstate compacts; state representatives) shall take effect on  
5 July 1, 2023.

6 (e) Sec. 11 (emergency contraception) shall take effect on or before  
7 September 1, 2023, on such date as the Commissioner of Health approves the  
8 State protocol.

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16 (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE