

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** **18 V.S.A. § 9405 is**
14 **amended to read:**

15 **§ 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE**
16 **ALLOCATION PLAN**

17 * * *

18 **(b) The Green Mountain Care Board, in consultation with the Secretary of**
19 **Human Services or designee, shall publish on its website the Health Resource**
20 **Allocation Plan identifying Vermont’s critical health needs, goods, services,**
21 **and resources, which shall be used to inform the Board’s regulatory processes,**

1 cost containment and statewide quality of care efforts, health care payment and
2 delivery system reform initiatives, and any allocation of health resources
3 within the State. The Plan shall identify Vermont residents' needs for health
4 care services, programs, and facilities; the resources available and the
5 additional resources that would be required to realistically meet those needs
6 and to make access to those services, programs, and facilities affordable for
7 consumers; and the priorities for addressing those needs on a statewide basis.
8 The Board may expand the Plan to include resources, needs, and priorities
9 related to the social determinants of health. The Plan shall be revised
10 periodically, but not less frequently than once every four years.

11 * * *

12 (3) The Board shall receive and consider public input on the Plan at a
13 minimum of one Board meeting and one meeting of the Advisory Committee
14 and shall give interested persons an opportunity to submit their views orally
15 and in writing.

16 (4) **The Board shall include reproductive health care services and**
17 **gender-affirming health care services, as those terms are defined in 1**
18 **V.S.A. § 150, in its Plan analysis.**

19 (5) As used in this section:

1 (A) “Health resources” means investments into the State’s health care
2 system, including investments in personnel, equipment, and infrastructure
3 necessary to deliver:

4 * * *

5 ~~(a)~~**(c)** The Agency of Human Services shall ~~include~~ **develop or identify**
6 **population-level indicators for measuring** access to reproductive health care
7 services and ~~access to~~ gender-affirming health care services, **as those terms**
8 **are defined in 1 V.S.A. § 150,** ~~as indicators for equitable access to health care~~
9 ~~in its Community Profiles of Health and Well-Being analysis in the State and~~
10 **set targets for improving equitable access to those services. The Agency**
11 **shall report annually to the House Committee on Health Care and the**
12 **Senate Committee on Health and Welfare on or before January 15 to**
13 **describe the State’s progress in meeting the identified targets within each**
14 **geographic region of the State.**

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

18 Sec. 10. BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL
19 REGULATION; INTERSTATE COMPACTS; REPORT

20 On or before November 1, ~~2024~~ **2025**, the Office of Professional
21 Regulation, in consultation with the Board of Medical Practice, shall submit a

1 report to the House Committee on Health Care and the Senate Committee on
2 Health and Welfare with findings and recommendations for legislative action
3 to address any concerns regarding the State’s participation, or contemplated
4 participation, in interstate licensure compacts as a result of the provisions of
5 this act, including the State’s participation in the Nurse Licensure Compact
6 pursuant to 26 V.S.A. chapter 28, subchapter 5 and the Interstate Medical
7 Licensure Compact pursuant to 26 V.S.A. chapter 23, subchapter 3A.

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

9 CHAPTER 56. OUT-OF-STATE TELEHEALTH LICENSURE &

10 REGISTRATION AND INTERSTATE COMPACTS

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

12 * * *

13 Subchapter 2. Interstate Compacts; Health Care Provider Compacts

14 § 3071. HEALTH CARE PROVIDER COMPACTS; DIRECTION TO
15 VERMONT REPRESENTATIVES

16 (a) The General Assembly finds that a state’s prohibition of or limitation on
17 the provision of gender-affirming health care services or reproductive health
18 care services, or both, as defined by 1 V.S.A. § 150, prohibits health care
19 providers from following health care best practices and is a failure on the part
20 of the state to provide health care services that are medically necessary and
21 clinically appropriate for its residents. Therefore, it is the General Assembly’s

1 intent to protect the ability of professionals licensed, certified, or registered in
2 Vermont, and **applicants professionals** from other member states seeking to
3 practice a profession in Vermont pursuant to an interstate compact or
4 agreement, to have the benefit of compacts and agreements while at the same
5 time engaging in, providing, or otherwise facilitating, personally or
6 professionally, gender-affirming health care and reproductive health care
7 services.

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

17 * * * Emergency Contraception * * *

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

19 Subchapter 1. General Provisions

20 * * *

21 § 2022. DEFINITIONS

1 As used in this chapter:

2 * * *

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

6 § 2023. CLINICAL PHARMACY; PRESCRIBING

7 * * *

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

9 * * *

10 (2) State protocol.

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

15 * * *

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

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

21 (xi) emergency contraception.

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

§ 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

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

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

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

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

CHAPTER 78. ACCESS TO REPRODUCTIVE AND GENDER-

AFFIRMING HEALTH CARE SERVICES

§ 2501. DEFINITIONS

As used in this chapter:

(1) “Gender-affirming health care readiness” means each institution’s

1 preparedness to provide gender-affirming health care services to students or
2 assist students in obtaining gender-affirming health care services, including
3 having in place equipment, protocols, patient educational materials,
4 informational websites, and training for staff; provided, however, that gender-
5 affirming health care readiness may include the provision of gender-affirming
6 health care services.

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

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

11 (4) “Medication abortion” means an abortion provided by medication
12 techniques.

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

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

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

1 § 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE
2 HEALTH CARE READINESS; REPORTS

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

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

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

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

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

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

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

1 (a) As used in this section:

2 (1) “Business associate” has the same meaning as in 45 C.F.R.
3 § 160.103.

4 (2) “Covered entity” ~~shall have~~ has the same meaning as in 45 C.F.R.
5 § 160.103.

6 (3) “Legally protected health care activity” has the same meaning as in
7 1 V.S.A. § 150.

8 ~~(2)~~(4) “Protected health information” ~~shall have~~ has the same meaning
9 as in 45 C.F.R. § 160.103.

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

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

14 (c) In order to protect patients and providers who engage in legally
15 protected health care activity, a covered entity or business associate shall not
16 disclose protected health information related to a legally protected health care
17 activity for use in a civil or criminal action; a proceeding preliminary to a civil
18 or criminal action; or a probate, legislative, or administrative proceeding unless
19 the disclosure meets one or more of the following conditions:

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

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

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

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

14 (5) The disclosure is to Vermont’s Board of Medical Practice or Office
15 of Professional Regulation, as applicable, in connection with a bona fide
16 investigation in Vermont of a licensed, certified, or registered health care
17 provider **or a bona fide investigation of whether an individual who is not**
18 **licensed, certified, or registered to practice a health care profession in**
19 **Vermont engaged in unauthorized practice in this State, whether in**
20 **person or through telehealth.**

21 **(6) The disclosure is to the Vermont Department of Health or the**

1 **Vermont Department of Disabilities, Aging, and Independent Living, or**
2 **both, in connection with a bona fide investigation of a licensed health care**
3 **facility in Vermont.**

4 * * * Effective Dates * * *

5 Sec. 15. EFFECTIVE DATES

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

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

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

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

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

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13 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE