

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 gender
14 incongruence. “Gender-affirming health care services” does not include
15 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
13 1 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.

1 Sec. 5. STATE PLAN AMENDMENT

2 The Agency of Human Services shall seek a state plan amendment from the
3 Centers for Medicare and Medicaid Services or federal authorities if needed to
4 allow Vermont’s Medicaid program to provide coverage consistent with this
5 act.

6 * * * Professional Regulation * * *

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

8 § 129a. UNPROFESSIONAL CONDUCT

9 (a) In addition to any other provision of law, the following conduct by a
10 licensee constitutes unprofessional conduct. When that conduct is by an
11 applicant or person who later becomes an applicant, it may constitute grounds
12 for denial of a license or other disciplinary action. Any one of the following
13 items or any combination of items, whether the conduct at issue was
14 committed within or outside the State, shall constitute unprofessional conduct:

15 * * *

16 (7) Willfully making or filing false reports or records in the practice of
17 the profession, willfully impeding or obstructing the proper making or filing of
18 reports or records, ~~or~~ willfully failing to file the proper reports or records, or
19 willfully providing inaccurate health or medical information to a patient,
20 including purposeful misrepresentation of a patient’s health status.

21 * * *

1 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 an
21 individual during that individual’s medical care, treatment, or confinement.

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

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

6 * * * Pregnancy Centers * * *

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

8 Subchapter 11. Pregnancy Services Centers

9 § 2491. FINDINGS; LEGISLATIVE INTENT

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

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

21 (2) Although some limited-services pregnancy centers openly

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

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

17 (4) Telling the truth is how trained health care providers demonstrate
18 respect for patients, foster trust, promote self-determination, and cultivate an
19 environment where best practices in shared decision-making can flourish.
20 Without veracity in information and communication, it is difficult for
21 individuals to make informed, voluntary choices that are essential to one's

1 sense of personal agency and autonomy.

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

7 (b) Intent.

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

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

18 § 2492. DEFINITIONS

19 As used in this subchapter:

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

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

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

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

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

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

21 (B) The center has staff or volunteers who wear medical attire or

1 uniforms.

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

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

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

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

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

12 § 2493. UNFAIR AND DECEPTIVE ACT

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

1 websites and web ads. For purposes of this chapter, advertising or the
2 provision of services by a limited-services pregnancy center is an act in
3 commerce.

4 (b) Health care providers certified, registered, or licensed under Title 26 of
5 the Vermont Statutes Annotated who are employed by, contracted to provide
6 services for or on behalf of, or volunteer to provide services at a limited-
7 services pregnancy center shall be responsible for conducting and providing
8 health care services, information, and counseling at the center. The failure of a
9 health care professional certified, registered, or licensed under Title 26 of the
10 Vermont Statutes Annotated to conduct or to ensure that health care services,
11 information, and counseling at the limited-services pregnancy services center
12 are conducted in accordance with State law and professional standards of
13 practice may constitute unprofessional conduct under 3 V.S.A. § 129a and 26
14 V.S.A. § 1354.

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

18 * * * Reports; Interstate Compacts * * *

19 Sec. 9. 18 V.S.A. § 9405 is amended to read:

20 § 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE
21 ALLOCATION PLAN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

* * *

(b) The Green Mountain Care Board, in consultation with the Secretary of Human Services or designee, shall publish on its website the Health Resource Allocation Plan identifying Vermont’s critical health needs, goods, services, and resources, which shall be used to inform the Board’s regulatory processes, cost containment and statewide quality of care efforts, health care payment and delivery system reform initiatives, and any allocation of health resources within the State. The Plan shall identify Vermont residents’ needs for health care services, programs, and facilities; the resources available and the additional resources that would be required to realistically meet those needs and to make access to those services, programs, and facilities affordable for consumers; and the priorities for addressing those needs on a statewide basis. The Board may expand the Plan to include resources, needs, and priorities related to the social determinants of health. The Plan shall be revised periodically, but not less frequently than once every four years.

* * *

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

1 any concerns regarding the State’s participation, or contemplated participation,
2 in interstate licensure compacts as a result of the provisions of this act,
3 including the State’s participation in the Nurse Licensure Compact pursuant to
4 26 V.S.A. chapter 28, subchapter 5 and the Interstate Medical Licensure
5 Compact pursuant to 26 V.S.A. chapter 23, subchapter 3A.

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

7 CHAPTER 56. OUT-OF-STATE TELEHEALTH LICENSURE &
8 REGISTRATION AND INTERSTATE COMPACTS

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

10 * * *

11 Subchapter 2. Interstate Compacts; Health Care Provider Compacts

12 § 3071. HEALTH CARE PROVIDER COMPACTS; DIRECTION TO
13 VERMONT REPRESENTATIVES

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

1 profession in Vermont pursuant to an interstate compact or agreement, to have
2 the benefit of compacts and agreements while at the same time engaging in,
3 providing, or otherwise facilitating, personally or professionally, gender-
4 affirming health care and reproductive health care services.

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

13 * * * Emergency Contraception * * *

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

15 Subchapter 1. General Provisions

16 * * *

17 § 2022. DEFINITIONS

18 As used in this chapter:

19 * * *

20 (22) “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 § 2023. CLINICAL PHARMACY; PRESCRIBING

3 * * *

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

5 * * *

6 (2) State protocol.

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

11 * * *

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

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

17 (xi) emergency contraception.

18 * * *

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

20 § 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

21 (a) A retail or institutional drug outlet licensed under this chapter or a

1 postsecondary school, as defined in and subject to 16 V.S.A. § 176, may make
2 over-the-counter emergency contraception and other nonprescription drugs or
3 articles for the prevention of pregnancy or conception available through a
4 vending machine or similar device.

5 (b) Notwithstanding any provision of subsection 2032(h) of this chapter to
6 the contrary, the Board may adopt rules in accordance with 3 V.S.A. chapter
7 25 to regulate the location, operation, utilization, and oversight of the vending
8 machines and similar devices described in subsection (a) of this section in a
9 manner that balances consumer access with appropriate safeguards for theft
10 prevention and safety.

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

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

13 CHAPTER 78. ACCESS TO REPRODUCTIVE AND GENDER-
14 AFFIRMING HEALTH CARE SERVICES

15 § 2501. DEFINITIONS

16 As used in this chapter:

17 (1) “Gender-affirming health care readiness” means each institution’s
18 preparedness to provide gender-affirming health care services to students or
19 assist students in obtaining gender-affirming health care services, including
20 having in place equipment, protocols, patient educational materials,
21 informational websites, and training for staff; provided, however, that gender-

1 affirming health care readiness may include the provision of gender-affirming
2 health care services.

3 (2) “Gender-affirming health care services” has the same meaning as in
4 1 V.S.A. § 150.

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

7 (4) “Medication abortion” means an abortion provided by medication
8 techniques.

9 (5) “Reproductive health care services” has the same meaning as in
10 1 V.S.A. § 150 and includes medication abortion.

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

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

18 § 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE

19 HEALTH CARE READINESS; REPORTS

20 (a) Each institution shall report to the Agency of Human Services annually,
21 on or before November 1, on the current status of its gender-affirming health

1 care and reproductive health care readiness, including:

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

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

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

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

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

13 (6) the information that the institution provides regarding facilities that
14 offer gender-affirming health care services and reproductive health care
15 services that are not available to students on campus, including information
16 regarding the scope of the services that are available at each such facility; and

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

21 (b) On or before January 31 of each year, the Agency of Human Services

1 shall compile the materials submitted pursuant to subsection (a) of this section
2 and report to the House Committees on Education, on Health Care, and on
3 Human Services and the Senate Committees on Education and on Health and
4 Welfare on the status of gender-affirming health care and reproductive health
5 care readiness at Vermont’s institutions.

6 Sec. 13. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE
7 HEALTH CARE READINESS; IMPLEMENTATION

8 Each institution shall submit its first report on the status of its gender-
9 affirming health care and reproductive health care readiness as required under
10 16 V.S.A. § 2502(a) to the Agency of Human Services on or before November
11 1, 2023, and the Agency shall provide its first legislative report on or before
12 January 31, 2024.

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

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

15 § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION

16 PROHIBITED

17 (a) As used in this section:

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

19 § 160.103.

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

21 § 160.103.

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

3 ~~(2)~~(4) “Protected health information” shall have has the same meaning
4 as in 45 C.F.R. § 160.103.

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

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

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

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

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

19 (3) The disclosure is ordered by a court of competent jurisdiction
20 pursuant to federal law, Vermont law, or rules adopted by the Vermont
21 Supreme Court. An order compelling disclosure under this subdivision shall

1 include the court’s determination that good cause exists to require disclosure of
2 the information related to legally protected health care activity.

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

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

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

20 * * * Effective Dates * * *

21 Sec. 15. EFFECTIVE DATES

1 (a) This section, Sec. 1 (definitions), Sec. 2 (medical malpractice), Secs. 6
2 and 7 (unprofessional conduct), Sec. 8 (pregnancy services centers), Secs. 9,
3 9a, and 10 (reports and analyses), Sec. 11a (emergency contraception; vending
4 machines), Secs. 12 and 13 (gender-affirming health care and reproductive
5 health care readiness; reports), and Sec. 14 (prohibition on disclosure of
6 protected health information) shall take effect on passage.

7 (b) Secs. 3 and 4 (insurance coverage) shall take effect on January 1, 2024
8 and shall apply to all health insurance plans issued on and after January 1,
9 2024 on such date as a health insurer offers, issues, or renews the health
10 insurance plan, but in no event later than January 1, 2025.

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

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

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

1
2
3
4
5
6
7
8
9
10
11

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE