

1

S.37

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

4 The House proposes to the Senate to amend the bill by striking out all after
5 the enacting clause and inserting in lieu thereof the following:

6 * * * Definitions * * *

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

8 § 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

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

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

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

19 (B) any act or omission undertaken to aid or encourage, or attempt to
20 aid or encourage, any person in the exercise and enjoyment, or attempted
21 exercise and enjoyment, of rights to reproductive health care services or

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

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

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

20 (3) Notwithstanding subdivision (2) of this subsection, the provision of a
21 health care service by a person duly licensed under the laws of this State and

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

5 (c)(1) "Reproductive health care services" means all supplies, care, and
6 services of a medical, behavioral health, mental health, surgical, psychiatric,
7 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature,
8 including medication, relating to pregnancy, contraception, assisted
9 reproduction, pregnancy loss management, or the termination of a pregnancy.

10 (2) "Reproductive health care services" includes medication that was
11 approved by the U.S. Food and Drug Administration (FDA) for termination of
12 a pregnancy as of January 1, 2023, regardless of the medication's current FDA
13 approval status:

14 (A) when such medication is procured, ordered, stored, distributed,
15 prescribed, dispensed, or administered, or a combination thereof, by a person
16 duly licensed under the laws of this State, as long as the licensee's actions
17 conform to the essential standards of acceptable and prevailing practice for the
18 licensee's profession; or

19 (B) when such medication is used by an individual.

1 pleading or other filing in the lawsuit.

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

4 * * *

5 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
6 DECEPTIVE ACTS OR PRACTICES DEFINED

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

9 * * *

10 (7) Unfair discrimination; arbitrary underwriting action.

11 (A) Making or permitting any unfair discrimination between insureds
12 of the same class and equal risk in the rates charged for any contract of
13 insurance, or in the dividends or other benefits payable thereon, or in any other
14 of the terms and conditions of such contracts.

15 * * *

16 (F)(i) Discriminating against a health care provider, as defined by
17 18 V.S.A. § 9496, or adjusting or otherwise calculating a health care provider’s
18 risk classification or premium charges on the basis that:

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

21 (II) another state’s laws create potential or actual liability for

1 that activity;

2 (III) abusive litigation against a provider concerning legally
3 protected health care activity resulted in a claim, settlement, or judgement
4 against the provider; or

5 (IV) the license of the provider has been disciplined in any way
6 by another state based solely on the provider’s provision of legally protected
7 health care activity.

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

13 * * *

14 * * * Insurance Coverage * * *

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

16 § 4088m. COVERAGE FOR GENDER-AFFIRMING HEALTH CARE
17 SERVICES

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

19 (1) “Gender-affirming health care services” has the same meaning as in
20 1 V.S.A. § 150.

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

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

10 (b) Coverage.

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

13 (A) are medically necessary and clinically appropriate for the
14 individual's diagnosis or health condition; and

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

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

20 (3) Nothing in this section shall prohibit a health insurance plan from
21 providing greater coverage for gender-affirming health care services than is

1 required under this section.

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

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

7 § 4099e. COVERAGE FOR ABORTION AND ABORTION-RELATED
8 SERVICES

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

10 (1) “Abortion” means any medical treatment intended to induce the
11 termination of, or to terminate, a clinically diagnosable pregnancy except for
12 the purpose of producing a live birth.

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

1 shall include any accident and sickness health plan.

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

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

7 (1) to the extent such coverage would disqualify a high-deductible
8 health plan from eligibility for a health savings account pursuant to 26 U.S.C.
9 § 223; and

10 (2) for coverage provided by Medicaid.

11 Sec. 5. STATE PLAN AMENDMENT

12 The Agency of Human Services shall seek a state plan amendment from the
13 Centers for Medicare and Medicaid Services or federal authorities if needed to
14 allow Vermont's Medicaid program to provide coverage consistent with this
15 act.

16 * * * Professional Regulation * * *

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

18 § 129a. UNPROFESSIONAL CONDUCT

19 (a) In addition to any other provision of law, the following conduct by a
20 licensee constitutes unprofessional conduct. When that conduct is by an
21 applicant or person who later becomes an applicant, it may constitute grounds

1 for denial of a license or other disciplinary action. Any one of the following
2 items or any combination of items, whether the conduct at issue was
3 committed within or outside the State, shall constitute unprofessional conduct:

4 * * *

5 (7) Willfully making or filing false reports or records in the practice of
6 the profession, willfully impeding or obstructing the proper making or filing of
7 reports or records, ~~or~~ willfully failing to file the proper reports or records, or
8 willfully providing inaccurate health or medical information to a patient,
9 including purposeful misrepresentation of a patient's health status.

10 * * *

11 (29) Providing or claiming to provide services or medications that are
12 purported to reverse the effects of a medication abortion.

13 * * *

14 (f)(1) Health care providers. Notwithstanding subsection (e) of this section
15 or any other law to the contrary, no health care provider who is certified,
16 registered, or licensed in Vermont shall be subject to professional disciplinary
17 action by a board or the Director, nor shall a board or the Director take adverse
18 action on an application for certification, registration, or licensure of a
19 qualified health care provider, based solely on:

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

1 legally protected health care activity; or

2 (B) a criminal, civil, or disciplinary action in another state against the
3 health care provider that is based solely on the provider providing or assisting
4 in the provision of legally protected health care activity.

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

6 (A) “Health care provider” means a person who provides
7 professional health care services to an individual during that individual’s
8 medical care, treatment, or confinement.

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

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

14 * * * Pregnancy Centers * * *

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

16 Subchapter 11. Pregnancy Services Centers

17 § 2491. FINDINGS; LEGISLATIVE INTENT

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

19 (1) Centers that seek to counsel clients against abortion, often referred to
20 as crisis pregnancy centers or limited-services pregnancy centers, have become
21 common across the country, including in Vermont. Accurate information

1 about the services that a limited-services pregnancy center performs, in
2 addition to forthright acknowledgement of its limitations, is essential to enable
3 individuals in this State to make informed decisions about their care. This
4 includes individuals being informed of whether they are receiving services
5 from a licensed and qualified health care provider at a limited-services
6 pregnancy center, as this allows individuals to determine if they need to seek
7 medical care elsewhere in order to continue or terminate a pregnancy.

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

17 (3) False and misleading advertising by centers that do not offer or refer
18 clients for abortion is of special concern to the State because of the time-
19 sensitive and constitutionally protected nature of the decision to continue or
20 terminate a pregnancy. When a pregnant individual is misled into believing
21 that a center offers services that it does not in fact offer or receives false or

1 misleading information regarding health care options, the individual loses time
2 crucial to the decision whether to terminate a pregnancy and may lose the
3 option to choose a particular method or to terminate a pregnancy at all.

4 (4) Telling the truth is how trained health care providers demonstrate
5 respect for patients, foster trust, promote self-determination, and cultivate an
6 environment where best practices in shared decision-making can flourish.
7 Without veracity in information and communication, it is difficult for
8 individuals to make informed, voluntary choices that are essential to one's
9 sense of personal agency and autonomy.

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

15 (b) Intent.

16 (1) It is the intent of the General Assembly to ensure that the public is
17 provided with accurate, factual information about the types of health care
18 services that are available to pregnant individuals in this State. The General
19 Assembly respects the constitutionally protected right of each individual to
20 personal reproductive autonomy, which includes the right to receive clear,
21 honest, and nonmisleading information about the individual's options and to

1 make informed, voluntary choices after considering all relevant information.

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

5 § 2492. DEFINITIONS

6 As used in this subchapter:

7 (1) “Abortion” means any medical treatment intended to induce the
8 termination of, or to terminate, a clinically diagnosable pregnancy except for
9 the purpose of producing a live birth.

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

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

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

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

21 (6) “Pregnancy services center” means a facility, including a mobile

1 facility, where the primary purpose is to provide services to individuals who
2 are or may be pregnant and that either offers obstetric ultrasounds, obstetric
3 sonograms, or prenatal care to pregnant individuals or has the appearance of a
4 medical facility. A pregnancy services center has the appearance of a medical
5 facility if two or more of the following factors are present:

6 (A) The center offers pregnancy testing or pregnancy diagnosis, or
7 both.

8 (B) The center has staff or volunteers who wear medical attire or
9 uniforms.

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

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

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

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

18 (7) "Premises" means land and improvements or appurtenances or any
19 part thereof.

20 § 2493. UNFAIR AND DECEPTIVE ACT

21 (a) It is an unfair and deceptive act and practice in commerce and a

1 violation of section 2453 of this title for any limited-services pregnancy center
2 to disseminate or cause to be disseminated to the public any advertising about
3 the services or proposed services performed at that center that is untrue or
4 clearly designed to mislead the public about the nature of services provided.
5 Advertising includes representations made directly to consumers; marketing
6 practices; communication in any print medium, such as newspapers,
7 magazines, mailers, or handouts; and any broadcast medium, such as television
8 or radio, telephone marketing, or advertising over the Internet such as through
9 websites and web ads. For purposes of this chapter, advertising or the
10 provision of services by a limited-services pregnancy center is an act in
11 commerce.

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

1 V.S.A. § 1354.

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

5 * * * Reports; Interstate Compacts * * *

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

7 § 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE
8 ALLOCATION PLAN

9 * * *

10 (b) The Green Mountain Care Board, in consultation with the Secretary of
11 Human Services or designee, shall publish on its website the Health Resource
12 Allocation Plan identifying Vermont's critical health needs, goods, services,
13 and resources, which shall be used to inform the Board's regulatory processes,
14 cost containment and statewide quality of care efforts, health care payment and
15 delivery system reform initiatives, and any allocation of health resources
16 within the State. The Plan shall identify Vermont residents' needs for health
17 care services, programs, and facilities; the resources available and the
18 additional resources that would be required to realistically meet those needs
19 and to make access to those services, programs, and facilities affordable for
20 consumers; and the priorities for addressing those needs on a statewide basis.
21 The Board may expand the Plan to include resources, needs, and priorities

1 related to the social determinants of health. The Plan shall be revised
2 periodically, but not less frequently than once every four years.

3 * * *

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

8 (4) The Board shall include reproductive health care services and
9 gender-affirming health care services, as those terms are defined in 1 V.S.A.
10 § 150, in its Plan analysis.

11 (5) As used in this section:

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

15 * * *

16 Sec. 9a. AGENCY OF HUMAN SERVICES; STATE HEALTH
17 ASSESSMENT; COMMUNITY PROFILES

18 The Agency of Human Services shall work with LGBTQA+ community
19 stakeholders and health care providers during the upcoming State Health
20 Assessment and Community Profiles community engagement processes to
21 explore barriers to equitable access to gender-affirming health care services, as

1 defined in 1 V.S.A. § 150.

2 Sec. 10. BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL
3 REGULATION; INTERSTATE COMPACTS; REPORT

4 On or before November 1, 2025, the Office of Professional Regulation, in
5 consultation with the Board of Medical Practice, shall submit a report to the
6 House Committee on Health Care and the Senate Committee on Health and
7 Welfare with findings and recommendations for legislative action to address
8 any concerns regarding the State's participation, or contemplated participation,
9 in interstate licensure compacts as a result of the provisions of this act,
10 including the State's participation in the Nurse Licensure Compact pursuant to
11 26 V.S.A. chapter 28, subchapter 5 and the Interstate Medical Licensure
12 Compact pursuant to 26 V.S.A. chapter 23, subchapter 3A.

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

14 CHAPTER 56. OUT-OF-STATE TELEHEALTH LICENSURE &
15 REGISTRATION AND INTERSTATE COMPACTS

16 Subchapter 1. Out-of-State Telehealth Licensure and Registration

17 * * *

18 Subchapter 2. Interstate Compacts; Health Care Provider Compacts

19 § 3071. HEALTH CARE PROVIDER COMPACTS; DIRECTION TO

20 VERMONT REPRESENTATIVES

21 (a) The General Assembly finds that a state's prohibition of or limitation on

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

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

1 contemporaneously contacting emergency services; ~~and~~

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

5 (xi) emergency contraception.

6 * * *

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

8 § 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

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

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

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

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

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

5 § 2501. DEFINITIONS

6 As used in this chapter:

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

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

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

18 (4) “Reproductive health care services” has the same meaning as in
19 1 V.S.A. § 150.

20 (5) “Reproductive health care readiness” means each institution’s
21 preparedness to provide reproductive health care services to students or assist

1 students in obtaining reproductive health care services, including having in
2 place equipment, protocols, patient educational materials, informational
3 websites, and training for staff; provided, however, that reproductive health
4 care readiness may include the provision of reproductive health care services.

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

6 § 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE

7 HEALTH CARE READINESS; REPORTS

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

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

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

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

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

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

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

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

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

15 Sec. 13. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE

16 HEALTH CARE READINESS; IMPLEMENTATION

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

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

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

3 § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION

4 PROHIBITED

5 (a) As used in this section:

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

7 § 160.103.

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

9 § 160.103.

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

11 1 V.S.A. § 150.

12 (2)(4) “Protected health information” shall have has the same meaning

13 as in 45 C.F.R. § 160.103.

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

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

16 health information unless the disclosure is permitted under the Health

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

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

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

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

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

1 or criminal action; or a probate, legislative, or administrative proceeding unless
2 the disclosure meets one or more of the following conditions:

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

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

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

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

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

1 licensed, certified, or registered to practice a health care profession in Vermont
2 engaged in unauthorized practice in this State, whether in person or through
3 telehealth.

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

8 * * * Effective Dates * * *

9 Sec. 15. EFFECTIVE DATES

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

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

20 (c) Sec. 5 (state plan amendment) shall take effect on January 1, 2024,
21 except that the Agency of Human Services shall submit its request for approval

1 of Medicaid coverage of the services prescribed in Sec. 4 of this act, if needed,
2 to the Centers for Medicare and Medicaid Services on or before July 1, 2023,
3 and the Medicaid coverage shall begin on the later of the date of approval or
4 January 1, 2024.

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

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