

1 H.80

2 Introduced by Representatives Cordes of Bristol, Berbeco of Winooski, Black
3 of Essex, Cina of Burlington, Critchlow of Colchester, Demar
4 of Enosburgh, Goldman of Rockingham, McFaun of Barre
5 Town, and Page of Newport City

6 Referred to Committee on

7 Date:

8 Subject: Health; health insurance; Office of the Health Care Advocate;
9 certificates of need

10 Statement of purpose of bill as introduced: This bill proposes to modify the
11 role and duties of the Office of the Health Care Advocate as they relate to
12 health care regulatory activities, access to information, and providing
13 assistance to Vermonters.

14 An act relating to the Office of the Health Care Advocate

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

16 ~~Sec. 1. 8 V.S.A. § 4062 is amended to read:~~

17 ~~§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS~~

18 ~~§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS~~

1 ~~(c)(1) The Board shall provide information to the public on the Board's~~
2 website about the public availability of the filings and summaries required
3 under this section.

4 * * *

5 ~~(3)(A) In addition to the public comment provisions set forth in this~~
6 subsection (c), the Office of the Health Care Advocate established in 18 V.S.A.
7 chapter 229, acting on behalf of health insurance consumers in this State, may,
8 within 30 calendar days after the Board receives an insurer's rate request
9 pursuant to this section, submit to the Board, in writing, ~~suggested~~ questions
10 regarding the filing for that the Board to provide to shall ask the insurer, either
11 directly or through its contracting actuary, if any.

*(3)(A) In addition to the public comment provisions set forth in this
subsection (c), the Office of the Health Care Advocate established in 18 V.S.A.
chapter 229, acting on behalf of health insurance consumers in this State, may,
within 30 calendar days after the Board receives an insurer's rate request
pursuant to this section, submit to the Board, in writing, ~~suggested~~ questions
regarding with an articulable nexus to the filing for that the Board to provide
to shall ask the insurer, either directly or through its contracting actuary, if
any.*

12 (B) The Office of the Health Care Advocate may also submit to the
13 ~~Board written comments on an insurer's rate request. The Board shall post the~~

1 ~~comments on its website and shall consider the comments prior to issuing its~~
2 ~~decision.~~

3 (d)(1) ~~No later than 60 calendar days after receiving an insurer's rate~~
4 ~~request pursuant to this section, the Green Mountain Care Board shall make~~
5 ~~available to the public the insurer's rate filing, the Department's analysis and~~
6 ~~opinion of the effect of the proposed rate on the insurer's solvency, and the~~
7 ~~analysis and opinion of the rate filing by the Board's contracting actuary, if~~
8 ~~any.~~

9 (2) ~~The Board shall post on its website, after redacting any confidential~~
10 ~~or proprietary information relating to the insurer or to the insurer's rate filing:~~

11 (A) ~~all questions the Board poses to its contracting actuary, if any,~~
12 ~~and the actuary's responses to the Board's questions; and~~

13 (B) ~~all questions the Board, the Board's contracting actuary, if any,~~
14 ~~or the Department poses to the insurer and the insurer's responses to those~~
15 ~~questions~~ The Green Mountain Care Board shall contemporaneously post on
16 its website or otherwise make available to the public through a file-sharing
17 platform all materials in the record of a rate review proceeding after redacting
18 any information or other material that the Board determines to be confidential
19 or otherwise subject to protection from disclosure by law.

20 ~~Sec. 1. 8 V.S.A. § 4062 is amended to read:~~

~~§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS~~

~~* * *~~

~~(c)(1) The Board shall provide information to the public on the Board's website about the public availability of the filings and summaries required under this section.~~

~~* * *~~

~~(3)(A) In addition to the public comment provisions set forth in this subsection (c), the Office of the Health Care Advocate established in 18 V.S.A. chapter 229, acting on behalf of health insurance consumers in this State, may, within 30 calendar days after the Board receives an insurer's rate request pursuant to this section, submit to the Board, in writing, suggested questions regarding with a substantial relationship to the rate filing for and review criteria that the Board to provide to shall ask the insurer, either directly or through its contracting actuary, if any.~~

~~(B) The Office of the Health Care Advocate may also submit to the Board written comments on an insurer's rate request. The Board shall post the comments on its website and shall consider the comments prior to issuing its decision.~~

~~(d)(1) No later than 60 calendar days after receiving an insurer's rate request pursuant to this section, the Green Mountain Care Board shall make available to the public the insurer's rate filing, the Department's analysis and~~

* * *

* * *

(9)(A) The Office of the Health Care Advocate established under chapter 229 of this title or, in the case of nursing homes, the Long-Term Care Ombudsman's Office established under 33 V.S.A. § 7502, is authorized but not

1 ~~required to participate in any administrative or judicial review of an~~
2 application under this subchapter and shall be considered an interested party in
3 such proceedings upon filing a notice of intervention with the Board.

4 (B) Once either office files a notice of intervention pursuant to this
5 subchapter, the Board shall provide that office with the information necessary
6 to participate in the review process, including information about procedures,
7 copies of all written correspondence, and copies of all entries in the application
8 record for all certificate of need proceedings, regardless of whether expedited
9 status has been granted that office shall have the right to receive copies of all
10 materials related to the certificate of need application review and may:

11 (i) ask questions of employees of the Green Mountain Care Board
12 related to the Board's review of the certificate of need application;

13 (ii) submit written questions to the Board that the Board will ask
14 of the applicant in advance of any hearing held in conjunction with the Board's
15 review of the certificate of need application;

16 (iii) submit written comments for the Board's consideration; and

17 (iv) ask questions and provide testimony in any hearing held in
18 conjunction with the Board's review of the certificate of need application.

19 (C) The Office of the Health Care Advocate and the Long-Term Care
20 Ombudsman's Office shall not further disclose any confidential or proprietary

1 ~~information provided to their respective offices pursuant to this subdivision~~

2 ~~(9).~~

3 Sec. 3. 18 V.S.A. chapter 229 is amended to read:

4 CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

5 * * *

6 § 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

7 (a) The Office of the Health Care Advocate is established as an
8 independent voice for Vermonters that is dedicated to promoting access to
9 high-quality, affordable health care for all.

10 (b) The Agency of Human Services shall maintain the Office of the Health
11 Care Advocate by contract with any nonprofit organization.

12 ~~(b)~~(c) The Office shall be administered by one or more directors, one of
13 whom shall be the Chief Health Care Advocate, who shall be an individual
14 with expertise and experience in the fields of health care and advocacy. The
15 Advocate director or directors may employ legal counsel, administrative staff,
16 and other employees and contractors as needed to carry out the duties of the
17 Office.

18 § 9603. DUTIES AND AUTHORITY

19 (a) The Office of the Health Care Advocate shall:

20 (1) Assist ~~health insurance consumers~~ Vermonters with health insurance
21 ~~plan selection by providing information, referrals, and assistance to individuals~~

1 ~~about means of obtaining and paying for health insurance coverage and~~
2 services. The Office shall accept referrals from the Vermont Health Benefit
3 Exchange and Exchange navigators created pursuant to 33 V.S.A. chapter 18,
4 subchapter 1, to assist ~~consumers~~ individuals experiencing problems related to
5 the Exchange.

6 (2) Assist ~~health insurance consumers~~ Vermonters to understand their
7 rights and responsibilities under health insurance plans.

8 (3) Provide information to the public, agencies, members of the General
9 Assembly, and others ~~regarding about~~ Vermonters' problems and concerns of
10 regarding health insurance consumers and access to health care, as well as
11 recommendations for resolving those problems and concerns.

12 (4) Identify, investigate, and resolve complaints, questions, and inquiries
13 on behalf of individual Vermonters with respect to issues regarding health
14 insurance consumers or access to health care, and assist those ~~consumers~~
15 Vermonters with filing and ~~pursuit of~~ pursuing complaints and appeals.

16 (5) Provide ~~information to individuals~~ consumer education to
17 Vermonters regarding their obligations rights and responsibilities under the
18 Patient Protection and Affordable Care Act (Pub. L. No. 111-148) State and
19 federal laws, rules, and regulations.

20 (6) Analyze and monitor the development and implementation of
21 ~~federal, State, and local laws, rules, and policies relating to patients and health~~

1 ~~insurance consumers health insurance and health care, with a special focus on~~
2 patients' rights and eligibility for State and federal health care programs.

3 (7) ~~Facilitate~~ Ensure policymakers hear directly from Vermonters by
4 facilitating public comment on health care-related laws, rules, processes, and
5 policies, including policies and actions of health insurers.

6 (8) ~~Suggest to the Green Mountain Care Board, the Department of~~
7 Financial Regulation, and other entities in State government policies,
8 procedures, or rules to the Green Mountain Care Board in order to that protect
9 patients' and consumers' and promote the interests of Vermonters in matters
10 related to health insurance and access to health care.

11 (9) ~~Promote the development of~~ Collaborate with other health care- and
12 health policy-related citizen and consumer organizations to promote affordable
13 and accessible health care for Vermonters.

14 (10) ~~Ensure that patients and health insurance consumers~~ all Vermonters
15 have timely access to the services provided by the Office.

16 (11) ~~Submit to the Governor; the House Committees on Health Care, on~~
17 Ways and Means, and on Appropriations; and the Senate Committees on
18 Health and Welfare, on Finance, and on Appropriations, on or before January 4
19 15 of each year, a report on the activities, performance, and fiscal accounts of
20 the Office during the preceding calendar year.

21 ~~(b) The Office of the Health Care Advocate may.~~

1 ~~(1) Review the health insurance records of a consumer who has~~
2 ~~provided written consent. Based on the written consent of the consumer or his~~
3 ~~or her guardian or legal representative, a health insurer shall provide the Office~~
4 ~~with access to records relating to that consumer. [Repealed.]~~

5 (2) Pursue administrative, judicial, and other remedies on behalf of any
6 individual health insurance consumer or group of consumers individuals
7 experiencing problems with health insurance or access to health care.

8 (3) Represent the interests of the people of the State ~~in cases requiring a~~
9 ~~hearing before~~ of Vermont in matters involving health care and health
10 insurance at the Green Mountain Care Board established in chapter 220 of this
11 title, the Department of Financial Regulation, or other State agencies.

12 (4) Adopt policies and procedures necessary to carry out the provisions
13 of this chapter.

14 (5) Take any other action necessary to fulfill the purposes of this
15 chapter.

16 (c) The Office of the Health Care Advocate shall be able to speak to
17 Vermonters and on behalf of the interests of Vermonters in health care care-
18 and health insurance consumers insurance-related matters and to carry out all
19 duties prescribed in this chapter without being subject to any retaliatory action;
20 provided, however, that nothing in this subsection shall limit the authority of
21 ~~the Agency of Human Services to enforce the terms of the contract.~~

~~(d) Health care providers and health insurers shall cooperate with the~~
Office of the Health Care Advocate by providing relevant records and
information when an individual or the individual's guardian or legal
representative has authorized the Office to act on the individual's behalf.

§ 9604. DUTIES OF STATE AGENCIES

(a) In developing State policy affecting health care access and affordability,
State agencies shall seek input from the Office of the Health Care Advocate.

(b) All State agencies shall comply facilitate the Office's meaningful
participation in health care policymaking by complying with reasonable
requests from the Office of the Health Care Advocate for information and,
assistance, and access. A request shall be considered reasonable if it relates to
the Office's statutory duties and authority.

~~(1) When appropriate, State agencies shall allow the Office to access~~
confidential or proprietary information that is otherwise exempt from public
inspection and copying under the Public Records Act and to participate in
meetings, deliberations, and proceedings in which confidential or proprietary
information is discussed.

(1) When appropriate, State agencies shall allow the Office to access
confidential or proprietary information that is otherwise exempt from public
inspection and copying under the Public Records Act and to participate in
meetings, deliberations, and proceedings in which confidential or proprietary

~~information is discussed; provided, however, that nothing in this section shall~~
~~require a State agency to provide or disclose information that is prohibited~~
~~from disclosure by State or federal law or that would cause the provider or~~
~~discloser to violate any statutory or common law privilege.~~

1 (2) The Office shall not further disclose any confidential or proprietary
2 information provided to the Office.

3 (c) The Agency of Human Services may adopt rules necessary to ensure
4 the cooperation of State agencies under this section.

5 § 9605. CONFIDENTIALITY

6 ~~In the absence of written consent by a complainant or an individual using~~
7 ~~the services of the Office or by his or her guardian or legal representative or~~
8 ~~the absence of a court order, the Office of the Health Care Advocate, its~~
9 ~~employees, and its contractors shall not disclose the identity of the~~
10 ~~complainant or individual~~ The Office of the Health Care Advocate shall
11 maintain the confidentiality of information related to individuals using its
12 services in accordance with all applicable State and federal laws, rules,
13 regulations, and policies.

14 § 9606. CONFLICTS OF INTEREST

15 (a) The Office of the Health Care Advocate, its employees, and its
16 contractors shall not have any conflict of interest relating to the performance
17 ~~of their responsibilities under this chapter. For the purposes of this chapter, a~~

1 ~~conflict of interest exists whenever the Office of the Health Care Advocate, its~~
2 employees, or its contractors or a person affiliated with the Office, its
3 employees, or its contractors:

4 (1) has a direct involvement in the licensing, certification, or
5 accreditation of a health care facility, health insurer, or health care provider;

6 (2) has a direct ownership interest or investment interest in a health care
7 facility, health insurer, or health care provider;

8 (3) is employed by or participating in the management of a health care
9 facility, health insurer, or health care provider; or

10 (4) receives or has the right to receive, directly or indirectly,
11 remuneration under a compensation arrangement with a health care facility,
12 health insurer, or health care provider.

13 (b) The Office shall report any potential conflicts of interest to the Agency
14 of Human Services.

15 (c) It shall not constitute a conflict of interest per se for an employee or
16 contractor of the Office to serve without compensation on the board of
17 directors of a nonprofit health care entity whose primary regulator is not an
18 agency of the State of Vermont.

19 * * *

20 Sec. 4. EFFECTIVE DATE

21 ~~This act shall take effect on July 1, 2025.~~

Sec. 1. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

** * **

(c)(1) The Board shall provide information to the public on the Board's website about the public availability of the filings and summaries required under this section.

** * **

(3)(A) In addition to the public comment provisions set forth in this subsection (c), the Office of the Health Care Advocate established in 18 V.S.A. chapter 229, acting on behalf of health insurance consumers in this State, may, within 30 calendar days after the Board receives an insurer's rate request pursuant to this section, submit to the Board, in writing, suggested questions regarding with a substantial relationship to the rate filing for and review criteria that the Board to provide to shall ask the insurer, either directly or through its contracting actuary, if any.

(B) The Office of the Health Care Advocate may also submit to the Board written comments on an insurer's rate request. The Board shall post the comments on its website and shall consider the comments prior to issuing its decision.

(d)(1) ~~No later than 60 calendar days after receiving an insurer's rate request pursuant to this section, the Green Mountain Care Board shall make~~

~~available to the public the insurer's rate filing, the Department's analysis and opinion of the effect of the proposed rate on the insurer's solvency, and the analysis and opinion of the rate filing by the Board's contracting actuary, if any.~~

~~(2) The Board shall post on its website, after redacting any confidential or proprietary information relating to the insurer or to the insurer's rate filing:~~

~~(A) all questions the Board poses to its contracting actuary, if any, and the actuary's responses to the Board's questions; and~~

~~(B) all questions the Board, the Board's contracting actuary, if any, or the Department poses to the insurer and the insurer's responses to those questions~~ The Green Mountain Care Board shall post on its website or otherwise make available to the public through a file-sharing platform all materials in the record of a rate review proceeding after redacting any information or other material that the Board determines to be confidential or otherwise subject to protection from disclosure by law.

* * *

Sec. 2. 18 V.S.A. § 9440(c) is amended to read:

(c) The application process shall be as follows:

* * *

(9)(A) The Office of the Health Care Advocate established under chapter 229 of this title or, in the case of nursing homes, the Long-Term Care

Ombudsman's Office established under 33 V.S.A. § 7502, is authorized but not required to participate in any administrative or judicial review of an application under this subchapter and shall be considered an interested party in such proceedings upon filing a notice of intervention with the Board.

(B) Once either office files a notice of intervention pursuant to this subchapter, the Board shall provide that office with the information necessary to participate in the review process, including information about procedures, copies of all written correspondence, and copies of all entries in the application record for all certificate of need proceedings, regardless of whether expedited status has been granted that office shall have the right to receive copies of all materials related to the certificate of need application review and may:

(i) submit written questions to the Board that the Board will ask of the applicant in advance of any hearing held in conjunction with the Board's review of the certificate of need application;

(ii) submit written comments for the Board's consideration; and

(iii) ask questions and provide testimony in any hearing held in conjunction with the Board's review of the certificate of need application.

(C) The Office of the Health Care Advocate and the Long-Term Care Ombudsman's Office shall not further disclose any confidential or proprietary information provided to their respective offices pursuant to this subdivision (9).

Sec. 3. 18 V.S.A. chapter 229 is amended to read:

CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

** * **

§ 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

(a) The Office of the Health Care Advocate is established as an independent voice for Vermonters that is dedicated to promoting access to high-quality, affordable health care for all.

(b) The Agency of Human Services shall maintain the Office of the Health Care Advocate by contract with any nonprofit organization.

~~(b)~~(c) The Office shall be administered by one or more directors, one of whom shall be the Chief Health Care Advocate, who shall be an individual with expertise and experience in the fields of health care and advocacy. The ~~Advocate~~ director or directors may employ legal counsel, administrative staff, and other employees and contractors as needed to carry out the duties of the Office.

§ 9603. DUTIES AND AUTHORITY

(a) The Office of the Health Care Advocate shall:

(1) Assist ~~health insurance consumers~~ Vermonters with health insurance plan selection by providing information, referrals, and assistance to individuals about means of obtaining and paying for health insurance coverage and services. The Office shall accept referrals from the Vermont

Health Benefit Exchange and Exchange navigators created pursuant to 33 V.S.A. chapter 18, subchapter 1, to assist ~~consumers~~ individuals experiencing problems related to the Exchange.

(2) Assist ~~health insurance consumers~~ Vermonters to understand their rights and responsibilities under health insurance plans.

(3) Provide information to the public, agencies, members of the General Assembly, and others ~~regarding about~~ Vermonters' problems and concerns ~~of regarding~~ health insurance ~~consumers~~ and access to health care, as well as recommendations for resolving those problems and concerns.

(4) Identify, investigate, and resolve complaints, questions, and inquiries on behalf of individual Vermonters with respect to issues regarding health insurance ~~consumers~~ or access to health care, and assist those ~~consumers~~ Vermonters with filing and ~~pursuit of~~ pursuing complaints and appeals.

(5) Provide ~~information to individuals~~ consumer education to Vermonters regarding their ~~obligations~~ rights and responsibilities under the ~~Patient Protection and Affordable Care Act (Pub. L. No. 111-148)~~ State and federal laws, rules, and regulations.

(6) Analyze and monitor the development and implementation of federal, State, and local laws, rules, and policies relating to ~~patients and~~ health insurance and health care, with a special ~~health insurance consumers~~

focus on patients' rights and eligibility for State and federal health care programs.

(7) Facilitate Ensure policymakers hear directly from Vermonters by facilitating public comment on health care-related laws, rules, processes, and policies; including policies and actions of health insurers.

(8) Suggest to the Green Mountain Care Board, the Department of Financial Regulation, and other entities in State government policies, procedures, or rules to the Green Mountain Care Board in order to that protect patients' and consumers' and promote the interests of Vermonters in matters related to health insurance and access to health care.

(9) Promote the development of Collaborate with other health care- and health policy-related citizen and consumer organizations to promote affordable and accessible health care for Vermonters.

(10) Ensure that patients and health insurance consumers all Vermonters have timely access to the services provided by the Office.

(11) Submit to the Governor; the House Committees on Health Care, on Ways and Means, and on Appropriations; and the Senate Committees on Health and Welfare, on Finance, and on Appropriations, on or before January 15 of each year, a report on the activities, performance, and fiscal accounts of the Office during the preceding calendar year.

(b) The Office of the Health Care Advocate may:

~~(1) Review the health insurance records of a consumer who has provided written consent. Based on the written consent of the consumer or his or her guardian or legal representative, a health insurer shall provide the Office with access to records relating to that consumer. [Repealed.]~~

~~(2) Pursue administrative, judicial, and other remedies on behalf of any individual health insurance consumer or group of consumers individuals experiencing problems with health insurance or access to health care.~~

~~(3) Represent the interests of the people of the State in cases requiring a hearing before of Vermont in matters involving health care and health insurance at the Green Mountain Care Board established in chapter 220 of this title, the Department of Financial Regulation, or other State agencies.~~

~~(4) Adopt policies and procedures necessary to carry out the provisions of this chapter:~~

~~(5) Take any other action necessary to fulfill the purposes of this chapter.~~

~~(c) The Office of the Health Care Advocate shall be able to speak to Vermonters and on behalf of the interests of Vermonters in health care care- and health insurance-consumers insurance-related matters and to carry out all duties prescribed in this chapter without being subject to any retaliatory action; provided, however, that nothing in this subsection shall limit the authority of the Agency of Human Services to enforce the terms of the contract.~~

(d) Health care providers and health insurers shall cooperate with the Office of the Health Care Advocate by providing relevant records and information when an individual or the individual's guardian or legal representative has authorized the Office to act on the individual's behalf. A health care provider or health insurer may require the written consent of the individual or the individual's guardian or legal representative prior to providing the records or information to the Office.

§ 9604. DUTIES OF STATE AGENCIES

(a) It is the intent of the General Assembly that State agencies shall seek input from the Office of the Health Care Advocate when developing or revising significant matters of State policy affecting health care access and affordability in order to ensure that Vermonters' perspectives are heard and considered through the voice of their independent advocate.

(b) All State agencies shall ~~comply~~ facilitate the Office's meaningful participation in health care policymaking by complying with reasonable requests from the Office of the Health Care Advocate for information and assistance, and access. A request shall be considered reasonable if it relates to the Office's statutory duties and authority.

(1) When appropriate, State agencies shall allow the Office to access confidential or proprietary information that is otherwise exempt from public inspection and copying under the Public Records Act and to participate in

meetings, deliberations, and proceedings in which confidential or proprietary information is discussed; provided, however, that nothing in this section shall require a State agency to provide or disclose information that is prohibited from disclosure by State or federal law or that would cause the provider or discloser to violate any statutory or common law privilege.

(2) The Office shall not further disclose any confidential or proprietary information provided to the Office.

(c) The Agency of Human Services may adopt rules necessary to ensure the cooperation of State agencies under this section.

§ 9605. CONFIDENTIALITY

~~In the absence of written consent by a complainant or an individual using the services of the Office or by his or her guardian or legal representative or the absence of a court order, the Office of the Health Care Advocate, its employees, and its contractors shall not disclose the identity of the complainant or individual~~ The Office of the Health Care Advocate shall maintain the confidentiality of information related to individuals using its services in accordance with all applicable State and federal laws, rules, regulations, and policies.

§ 9606. CONFLICTS OF INTEREST

(a) The Office of the Health Care Advocate, its employees, and its contractors shall not have any conflict of interest relating to the performance

of their responsibilities under this chapter. For the purposes of this chapter, a conflict of interest exists whenever the Office of the Health Care Advocate, its employees, or its contractors or a person affiliated with the Office, its employees, or its contractors:

(1) has a direct involvement in the licensing, certification, or accreditation of a health care facility, health insurer, or health care provider;

(2) has a direct ownership interest or investment interest in a health care facility, health insurer, or health care provider;

(3) is employed by or participating in the management of a health care facility, health insurer, or health care provider; or

(4) receives or has the right to receive, directly or indirectly, remuneration under a compensation arrangement with a health care facility, health insurer, or health care provider.

(b) The Office shall report any potential conflicts of interest to the Agency of Human Services.

(c) It shall not constitute a conflict of interest per se for an employee or contractor of the Office to serve without compensation on the board of directors of a nonprofit health care entity whose primary regulator is not an agency of the State of Vermont.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2025.