

1 S.30

2 An act relating to updating and reorganizing the health insurance statutes in  
3 8 V.S.A. chapter 107

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

5 \* \* \* Repeal of Existing 8 V.S.A. Chapter 107 \* \* \*

6 Sec. 1. REPEAL OF EXISTING 8 V.S.A. CHAPTER 107

7 8 V.S.A. chapter 107 (health insurance) is repealed.

8 \* \* \* Enactment of Updated and Reorganized 8 V.S.A. Chapter 107 \* \* \*

9 Sec. 2. 8 V.S.A. chapter 107 is added to read:

10 CHAPTER 107. HEALTH INSURANCE

11 Subchapter 1. General Provisions

12 § 4011. DEFINITIONS

13 As used in this chapter:

14 (1) “Covered individual” means an individual who is covered by a  
15 health insurance plan, whether as the primary subscriber or policyholder or as a  
16 dependent, employee, or employee’s dependent under the plan.

17 (2) “Health care services” means services for the diagnosis, prevention,  
18 treatment, cure, or relief of a health condition, illness, injury, or disease.

19 (3) “Health insurance plan” means a policy or contract issued by a  
20 health insurer, including the health benefit plan or plans offered by the State of  
21 Vermont to its employees and any health benefit plan offered by any agency or

1 instrumentality of the State to its employees. Unless otherwise specified,

2 “health insurance” does not include Vermont Medicaid.

3 (4) “Health insurer” means an insurance company that provides health  
4 insurance as defined in subdivision 3301(a)(2) of this title, a nonprofit hospital  
5 or medical service corporation, a managed care organization, a health  
6 maintenance organization, and, to the extent permitted under federal law, any  
7 administrator of an insured, self-insured, or publicly funded health care benefit  
8 plan offered by a public or private entity.

9 (5) “Major medical insurance” means a comprehensive health insurance  
10 plan that is not specific disease, accident, hospital indemnity, dental care,  
11 vision care, disability income, long-term care, Medicare supplement insurance,  
12 or other limited-benefit coverage. The term does not include short-term,  
13 limited-duration health insurance coverage or a plan under which benefits are  
14 paid directly to a covered individual or the individual’s assigns and for which  
15 the amount of the benefit is not based on potential medical costs or on actual  
16 costs incurred.

17 § 4012. COMPLIANCE WITH FEDERAL LAW

18 (a) Except as otherwise provided in this title, health insurers, hospital and  
19 medical service corporations, and health maintenance organizations that issue,  
20 sell, renew, or offer health insurance plans in Vermont shall comply with the  
21 requirements of the Health Insurance Portability and Accountability Act of

1 1996, as amended from time to time (42 U.S.C. Chapter 6A, Subchapter  
2 XXV), and the Patient Protection and Affordable Care Act of 2010, Pub. L.  
3 No. 111-148, as amended by the Health Care and Education Reconciliation Act  
4 of 2010, Pub. L. No. 111-152. The Commissioner shall enforce such  
5 requirements pursuant to the Commissioner's authority under this title.

6 (b)(1) Health insurers, hospital and medical service corporations, health  
7 maintenance organizations, and health care providers, as that term is defined in  
8 18 V.S.A. § 9432, shall comply with the requirements of the No Surprises Act,  
9 Pub. L. No. 116-260, Division BB, Title I, as amended from time to time.

10 (2) The Commissioner shall enforce the requirements of the No  
11 Surprises Act as they apply to health insurers, hospital and medical service  
12 corporations, health maintenance organizations, and health care providers, to  
13 the extent permitted under federal law, pursuant to the Commissioner's  
14 authority under this title. The Commissioner may also refer cases of  
15 noncompliance to the U.S. Department of Health and Human Services under  
16 the terms of a collaborative enforcement agreement, or to the Office of the  
17 Vermont Attorney General.

18 § 4013. DISCRIMINATION PROHIBITED

19 No health insurer shall make or permit any unfair discrimination between  
20 individuals of substantially the same hazard in the amount of premium rates  
21 charged for any health insurance plan or in the benefits payable under the plan;

1 provided, however, that this section shall not be construed to prohibit different  
2 premium rates, different benefits, or different underwriting procedure for  
3 individuals insured under group, family expense, or blanket plans of insurance.

4 § 4014. ADVERTISING PRACTICES

5 (a) No company doing business in this State, and no insurance agent or  
6 broker, shall use in connection with the solicitation of health insurance or  
7 pharmacy benefit management any advertising copy or advertising practice or  
8 any plan of solicitation that is materially misleading or deceptive. An  
9 advertising copy or advertising practice or plan of solicitation shall be  
10 considered to be materially misleading or deceptive if by implication or  
11 otherwise it transmits information in such manner or of such substance that a  
12 prospective applicant for health insurance may be misled by it to the  
13 applicant's material damage.

14 (b)(1) If the Commissioner finds that any such advertising copy or  
15 advertising practice or plan of solicitation is materially misleading or  
16 deceptive, the Commissioner shall order the company or the agent or broker  
17 using such copy or practice or plan to cease and desist from such use.

18 (2) Before making any such finding and order, the Commissioner shall  
19 give notice, not less than 10 days in advance, and a hearing to the company,  
20 agent, or broker affected.

1           (3) If the Commissioner finds, after due notice and hearing, that any  
2           authorized insurer, licensed pharmacy benefit manager, licensed insurance  
3           agent, or licensed insurance broker has intentionally violated any such order to  
4           cease and desist, the Commissioner may suspend or revoke the license of such  
5           insurer, pharmacy benefit manager, agent, or broker.

6           § 4015. PENALTIES FOR VIOLATIONS

7           The Commissioner may impose an administrative penalty of up to \$750.00  
8           on any person who intentionally violates any provision of this chapter or any  
9           order of the Commissioner made in accordance with this chapter. The  
10          Commissioner may also suspend or revoke the license of a health insurer or  
11          agent for any such intentional violation.

12          § 4016. APPEAL

13          (a) Any person aggrieved by any action of the Commissioner may obtain a  
14          review by appeal to the Superior Court of Washington County. The appeal  
15          shall be based on the record of the proceedings before the Commissioner and  
16          shall not be limited to questions of law. If the appeal is from an order of the  
17          Commissioner, the order shall not take effect during the pendency of the  
18          appeal unless the court determines otherwise.

19          (b) The court may review all the facts and in disposing of any issue before  
20          it may modify, affirm, or reverse any order of the Commissioner in whole or in  
21          part.

1        (c) Either party may appeal from the decision of the Superior Court to the  
2        Supreme Court in the manner provided by law.

3        § 4017. EXEMPTION FROM ATTACHMENT AND TRUSTEE PROCESS

4        So much of any benefits under all policies of health insurance as does not  
5        exceed \$200.00 for each month during any period of disability covered by the  
6        policy shall not be liable to attachment, trustee process, or other process, or to  
7        be seized, taken, appropriated, or applied by any legal or equitable process or  
8        by operation of law, either before or after payment of such benefits, to pay any  
9        debt or liabilities of the person insured under the policy. However, this  
10       exemption shall not apply where an action is brought to recover for necessities  
11       contracted for during the period of disability and the writ or bill of complaint  
12       contains a statement to that effect. When a policy provides for a lump sum  
13       payment because of a dismemberment or other loss insured, the payment shall  
14       be exempt from execution of the covered individual's creditors.

15       § 4018. THIRD-PARTY OWNERSHIP

16       Nothing in this chapter shall be construed as preventing a person other than  
17       the covered individual with proper insurable interest from making application  
18       for and owning a policy covering the covered individual or from being entitled  
19       under such a policy to any indemnities, benefits, and rights provided in the  
20       policy.

1     § 4019. NOTICE AS WAIVER

2         A health insurer shall not be deemed to have waived any rights to defend a  
3         claim under a health insurance plan based solely on the health insurer's  
4         acknowledgement of receipt of notice under the plan, furnishing or accepting  
5         forms for filing proof of loss under the plan, or investigating any claim of loss  
6         under the plan.

7     § 4020. AGE LIMITS

8         (a) If a health insurance plan contains a provision establishing, as an age  
9         limit or otherwise, a date after which the coverage provided by the plan will  
10        not be effective, and if that date falls within a period for which the health  
11        insurer has accepted a premium or if the health insurer accepts a premium after  
12        that date, the coverage provided by the plan shall continue in force subject to  
13        any right of cancellation until the end of the period for which a premium has  
14        been accepted.

15        (b) Notwithstanding any provision of subsection (a) of this section to the  
16        contrary, if the age of the covered individual has been misstated and if,  
17        according to the correct age of the covered individual, the coverage provided  
18        by the policy would not have become effective or would have ceased prior to  
19        the health insurer's acceptance of the premium or premiums, then the health  
20        insurer's liability shall be limited to the refund, upon request, of all premiums  
21        paid for the period not covered by the plan.

1     § 4021. TERMINATION OF COVERAGE

2         (a)(1) A major medical insurance policy issued by a health insurer that  
3         insures employees, members, or subscribers for hospital and medical insurance  
4         on an expense-incurred, service, or prepaid basis shall:

5             (A) provide notice to the policyholder or other responsible party of  
6             any premium payment due on a policy at least 21 days before the due date; and

7             (B) provide a grace period of at least one month for the payment of  
8             each premium falling due after the first premium, during which grace period  
9             the plan shall continue in force and the issuer of the plan shall be liable for  
10            valid claims for covered losses incurred prior to the end of the grace period.

11            (2) If the issuer of a plan described subdivision (1) of this subsection  
12            does not receive payment by the due date, the issuer shall send a termination  
13            notice to the policyholder at least 21 days prior to termination notifying the  
14            policyholder that the issuer may terminate the plan if payment is not received  
15            by the termination date.

16            (3) The termination date of a plan described in subdivision (1) of this  
17            subsection shall not be earlier than the day following the last day of the grace  
18            period set forth in subdivision (1)(A) of this subsection.

19            (b) For all health insurance policies other than major medical insurance  
20            policies, a health insurer shall notify a policyholder of any premium payment  
21            due on a policy at least 21 days before the due date. If a health insurer does



1 not receive payment by the due date, the health insurer shall send a termination  
2 notice to the policyholder notifying the policyholder that the health insurer will  
3 terminate the policy effective on the due date if payment is not received within  
4 14 days from the date of mailing of the termination notice. If a health insurer  
5 does not receive payment within 14 days from the date of mailing of the  
6 termination notice, the health insurer may cancel coverage effective on the due  
7 date.

8 § 4022. REBATES AND COMMISSIONS PROHIBITED FOR NONGROUP  
9 AND SMALL GROUP POLICIES AND PLANS OFFERED  
10 THROUGH THE VERMONT HEALTH BENEFIT EXCHANGE

11 (a) No health insurer doing business in this State and no insurance agent or  
12 broker shall:

13 (1) offer, promise, allow, give, set off, or pay, directly or indirectly:

14 (A) any rebate of or part of the premium payable on a health  
15 insurance plan issued pursuant to 33 V.S.A. § 1811 or earnings, profits,  
16 dividends, or other benefits founded, arising, accruing, or to accrue on or from  
17 the premium;

18 (B) any special advantage in date of policy or age of issue;

19 (C) any paid employment or contract for services of any kind;

1           (D) any other valuable consideration or inducement to or for  
2           insurance on any risk in this State, or for or upon any renewal of any such  
3           insurance, that is not specified in the health insurance plan; or

4           (2) offer, promise, give, option, sell, or purchase any stocks, bonds,  
5           securities, or property, or any dividends or profits accruing or to accrue on  
6           them, or other thing of value as inducement to insurance or in connection with  
7           insurance, or any renewal thereof, that is not specified in the health insurance  
8           plan.

9           (b) No person insured under a health insurance plan issued pursuant to  
10          33 V.S.A. § 1811 or party or applicant for such plan shall directly or indirectly  
11          receive or accept or agree to receive or accept any rebate of premium or of any  
12          part of the premium, or any favor or advantage, or share in any benefit to  
13          accrue under any health insurance plan issued pursuant 33 V.S.A. § 1811, or  
14          any valuable consideration or inducement, that is not specified in the health  
15          insurance plan.

16          (c) Nothing in this section shall be construed as prohibiting any health  
17          insurer from:

18               (1) allowing or returning to its participating policyholders dividends,  
19               savings, or unused premium deposits;

20               (2) returning or otherwise abating, in full or in part, the premiums of its  
21               policyholders out of surplus accumulated from nonparticipating insurance; or

1           (3) taking a bona fide obligation, with interest not exceeding six percent  
2           per annum, in payment of any premium.

3           (d)(1) No insurer shall pay any commission, fee, or other compensation,  
4           directly or indirectly, to a licensed or unlicensed agent, broker, or other  
5           individual in connection with the sale of a health insurance plan issued  
6           pursuant to 33 V.S.A. § 1811, nor shall a health insurer include in an insurance  
7           rate for a health insurance plan issued pursuant to 33 V.S.A. § 1811 any sums  
8           related to services provided by an agent, broker, or other individual. A health  
9           insurer may provide to its employees wages, salary, and other employment-  
10           related compensation in connection with the sale of health insurance plans, but  
11           shall not structure any such compensation in a manner that promotes the sale of  
12           particular health insurance plans over other plans offered by that insurer.

13           (2) Nothing in this subsection shall be construed to prohibit the Vermont  
14           Health Benefit Exchange established in 33 V.S.A. chapter 18, subchapter 1  
15           from structuring compensation for agents or brokers in the form of an  
16           additional commission, fee, or other compensation outside insurance rates or  
17           from compensating agents, brokers, or other individuals through the  
18           procedures and payment mechanisms established pursuant to 33 V.S.A.  
19           § 1805(17).

1     § 4022a. REBATES PROHIBITED FOR GROUP INSURANCE POLICIES

2         (a) As used in this section, “group insurance” means any policy described  
3     in section 4041 of this title, except that it shall not include any small group  
4     policy issued pursuant to 33 V.S.A. § 1811.

5         (b) No health insurer doing business in this State and no insurance agent or  
6     broker shall:

7             (1) offer, promise, allow, give, set off, or pay, directly or indirectly:

8                 (A) any rebate of or part of the premium payable on a group  
9     insurance policy, or on any group insurance policy or agent’s commission on  
10    the premium or earnings, profits, dividends, or other benefits founded, arising,  
11    accruing, or to accrue on or from the premium;

12                (B) any special advantage in date of policy or age of issue;

13                (C) any paid employment or contract for services of any kind; or

14                (D) any other valuable consideration or inducement to or for  
15    insurance on any risk in this State, or for or upon any renewal of any such  
16    insurance, that is not specified in the health insurance plan; or

17             (2) offer, promise, give, option, sell, or purchase any stocks, bonds,  
18    securities, or property, or any dividends or profits accruing or to accrue on  
19    them, or other thing of value as inducement to insurance or in connection with  
20    insurance, or any renewal thereof, that is not specified in the health insurance  
21    plan.

1       (c) No person insured under a group insurance policy or party or applicant  
2       for group insurance shall directly or indirectly receive or accept or agree to  
3       receive or accept any rebate of premium or of any part of the premium, or all  
4       or any part of any agent's or broker's commission on the premium, or any  
5       favor or advantage, or share in any benefit to accrue under any health  
6       insurance plan, or any valuable consideration or inducement, that is not  
7       specified in the health insurance plan.

8       (d) Nothing in this section shall be construed as prohibiting:

9           (1) the payment of commission or other compensation to any duly  
10       licensed agent or broker;

11           (2) any health insurer from allowing or returning to its participating  
12       policyholders dividends, savings, or unused premium deposits;

13           (3) any health insurer from returning or otherwise abating, in full or in  
14       part, the premiums of its policyholders out of surplus accumulated from  
15       nonparticipating insurance; or

16           (4) the health insurer from taking a bona fide obligation, with interest  
17       not exceeding six percent per annum, in payment of any premium.

18       (e) A health insurer that pays a commission, fee, or other compensation,  
19       directly or indirectly, to a licensed or unlicensed agent, broker, or other  
20       individual other than a bona fide employee of the health insurer in connection  
21       with the sale of a group insurance policy shall clearly disclose to the purchaser

1 of the policy the amount of any such commission, fee, or compensation paid or  
2 to be paid.

3 § 4023. PROVISIONS APPLYING TO POLICIES DELIVERED IN  
4 ANOTHER STATE

5 If any policy is issued by a health insurer domiciled in this State for  
6 delivery to a person residing in another state, and if the official having  
7 responsibility for the administration of the insurance laws of the other state  
8 informs the Commissioner that the policy is not subject to approval or  
9 disapproval by the official, the Commissioner may issue an order requiring that  
10 the policy meet the standards set forth in sections 4029, 4030, and 4031 of this  
11 title.

12 § 4024. COORDINATION OF INSURANCE COVERAGE WITH  
13 MEDICAID AND COMPLIANCE WITH MEDICAID RECOVERY  
14 PROVISIONS

15 (a) No health insurer shall consider the availability of or eligibility for  
16 medical assistance in this or any other state under Title XIX of the Social  
17 Security Act (Medicaid) when considering eligibility for coverage or making  
18 payments under its plan for eligible enrollees, subscribers, policyholders, or  
19 certificate holders.

20 (b) A health insurer that issues, sells, renews, or offers health insurance  
21 coverage in Vermont or who is required to be licensed or registered with the

1 Department shall comply with the requirements of 33 V.S.A. §§ 1907, 1908,  
2 1909, and 1910. The Commissioner shall enforce such requirements pursuant  
3 to the Commissioner's authority under this title.

4 § 4025. HEALTH INSURANCE AND THE BLUEPRINT FOR HEALTH

5 (a) All major medical insurance plans shall be offered, issued, and  
6 administered consistent with the Blueprint for Health established in 18 V.S.A.  
7 chapter 13.

8 (b) Health insurers offering major medical insurance plans shall participate  
9 in the Blueprint for Health as specified in 18 V.S.A. § 706.

10 Subchapter 2. Policy Forms and Filing Requirements

11 § 4026. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

12 (a)(1) No policy of health insurance or certificate under a policy filed by a  
13 health insurer and not exempted by subdivision 3368(a)(4) of this title shall be  
14 delivered or issued for delivery in this State, nor shall any endorsement, rider,  
15 or application that becomes a part of any such policy be used, until a copy of  
16 the form and of the rules for the classification of risks has been filed with the  
17 Department of Financial Regulation and a copy of the premium rates has been  
18 filed with the Green Mountain Care Board, and the Green Mountain Care  
19 Board has issued a decision approving, modifying, or disapproving the  
20 proposed rate.

1           (2)(A) The Green Mountain Care Board shall review rate requests and  
2           shall approve, modify, or disapprove a rate request within 90 calendar days  
3           after receipt of an initial rate filing from a health insurer. If a health insurer  
4           fails to provide necessary materials or other information to the Board in a  
5           timely manner, the Board may extend its review for a reasonable additional  
6           period of time, not to exceed 30 calendar days.

7           (B) Prior to the Board's decision on a rate request, the Department of  
8           Financial Regulation shall provide the Board with an analysis and opinion on  
9           the impact of the proposed rate on the insurer's solvency and reserves.

10          (3) The Board shall determine whether a rate is affordable; promotes  
11          quality care; promotes access to health care; protects insurer solvency; and is  
12          not unjust, unfair, inequitable, misleading, or contrary to the laws of this State.  
13          In making this determination, the Board shall consider the analysis and opinion  
14          provided by the Department of Financial Regulation pursuant to subdivision  
15          (2)(B) of this subsection.

16          (b)(1) In conjunction with a rate filing required by subsection (a) of this  
17          section, a health insurer shall file a plain language summary of the proposed  
18          rate. All summaries shall include a brief justification of any rate increase  
19          requested, the information that the Secretary of the U.S. Department of Health  
20          and Human Services (HHS) requires for rate increases over 10 percent, and  
21          any other information required by the Board. The plain language summary



1 shall be in the format required by the Secretary of HHS pursuant to the Patient  
2 Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, as amended  
3 by the Health Care and Education Reconciliation Act of 2010, Pub. L. No.  
4 111-152, and shall include notification of the public comment period  
5 established in subsection (c) of this section. In addition, the insurer shall post  
6 the summaries on its website.

7 (2)(A) In conjunction with a rate filing required by subsection (a) of this  
8 section, a health insurer shall disclose to the Board:

9 (i) for all covered prescription drugs, including generic drugs,  
10 brand-name drugs excluding specialty drugs, and specialty drugs dispensed at a  
11 pharmacy, network pharmacy, or mail-order pharmacy for outpatient use:

12 (I) the percentage of the premium rate attributable to  
13 prescription drug costs for the prior year for each category of prescription  
14 drugs;

15 (II) the year-over-year increase or decrease, expressed as a  
16 percentage, in per-member, per-month total health plan spending on each  
17 category of prescription drugs; and

18 (III) the year-over-year increase or decrease in per-member,  
19 per-month costs for prescription drugs compared to other components of the  
20 premium rate; and

1                   (ii) the specialty tier formulary list.

2                   (B) The insurer shall provide, if available, the percentage of the  
3 premium rate attributable to prescription drugs administered by a health care  
4 provider in an outpatient setting that are part of the medical benefit as separate  
5 from the pharmacy benefit.

6                   (C) The insurer shall include information on its use of a pharmacy  
7 benefit manager, if any, including which components of the prescription drug  
8 coverage described in subdivisions (A) and (B) of this subdivision (2) are  
9 managed by the pharmacy benefit manager, as well as the name of the  
10 pharmacy benefit manager or managers used.

11                  (3)(A) Upon request, in conjunction with a rate filing required by  
12 subsection (a) of this section, a health insurer shall provide to the Board  
13 detailed information about the insurer's payments to specific providers, which  
14 may include fee schedules, payment methodologies, and other payment  
15 information specified by the Board.

16                  (B) Confidential business information and trade secrets received from  
17 a health insurer pursuant to subdivision (A) of this subdivision (3) shall be  
18 exempt from public inspection and copying under 1 V.S.A. § 317(c)(9) and  
19 shall be kept confidential, except that the Board may disclose or release  
20 information publicly in summary or aggregate form if doing so would not  
21 disclose confidential business information or trade secrets.

1           (C) Notwithstanding 1 V.S.A. chapter 5, subchapter 2 (Vermont  
2           Open Meeting Law), the Board may examine and discuss confidential  
3           information outside a public hearing or meeting.

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

7           (2)(A) The Board shall post the rate filings pursuant to subsection (a) of  
8           this section and summaries pursuant to subsection (b) of this section on the  
9           Board's website within five calendar days following filing. The Board shall  
10          also establish a mechanism by which members of the public may request to be  
11          notified automatically each time a proposed rate is filed with the Board.

12          (B) The Board shall provide an electronic mechanism for the public  
13          to comment on all rate filings. The Board shall accept public comment on each  
14          rate filing from the date on which the Board posts the rate filing on its website  
15          pursuant to subdivision (A) of this subdivision (2) until 15 calendar days after  
16          the Board posts on its website the analyses and opinions of the Department of  
17          Financial Regulation and of the Board's consulting actuary, if any, as required  
18          by subsection (d) of this section. The Board shall review and consider the  
19          public comments prior to issuing its decision.

20          (3)(A) In addition to the public comment provisions set forth in this  
21          subsection, the Office of the Health Care Advocate established in 18 V.S.A.

1 chapter 229, acting on behalf of health insurance consumers in this State, may,  
2 within 30 calendar days after the Board receives a health insurer's rate request  
3 pursuant to this section, submit to the Board, in writing, suggested questions  
4 regarding the filing for the Board to provide to its contracting actuary, if any.

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

9 (d)(1) Not later than 60 calendar days after receiving a health insurer's rate  
10 request pursuant to this section, the Green Mountain Care Board shall make  
11 available to the public the insurer's rate filing, the Department's analysis and  
12 opinion of the effect of the proposed rate on the insurer's solvency, and the  
13 analysis and opinion of the rate filing by the Board's contracting actuary, if  
14 any.

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

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

19 (B) all questions the Board; the Board's contracting actuary, if any;  
20 or the Department poses to the insurer and the insurer's responses to those  
21 questions.

1       (e) Within the time period set forth in subdivision (a)(2)(A) of this section,

2       the Board shall:

3               (1) conduct a public hearing, at which the Board shall:

4                       (A) call as witnesses the Commissioner of Financial Regulation or  
5       designee and the Board's contracting actuary, if any, unless all parties agree to  
6       waive such testimony; and

7                       (B) provide an opportunity for testimony from the insurer, the Office  
8       of the Health Care Advocate, and members of the public;

9               (2) at a public hearing, announce the Board's decision of whether to  
10       approve, modify, or disapprove the proposed rate; and

11               (3) issue its decision in writing.

12       (f)(1) The insurer shall notify its policyholders of the Board's decision in a  
13       timely manner, as defined by the Board by rule.

14               (2) Rates shall take effect on the date specified in the insurer's rate  
15       filing.

16               (3) If the Board has not issued its decision by the effective date specified  
17       in the insurer's rate filing, the insurer shall notify its policyholders of its  
18       pending rate request and of the effective date proposed by the insurer in its rate  
19       filing.

20               (g) A health insurer, the Office of the Health Care Advocate, and any  
21       member of the public with party status, as defined by the Board by rule, may

1 appeal a decision of the Board approving, modifying, or disapproving the  
2 insurer's proposed rate to the Vermont Supreme Court.

3 (h)(1) The authority of the Board under this section shall apply only to the  
4 rate review process for policies for major medical insurance coverage and shall  
5 not apply to the policy forms for major medical insurance coverage or to the  
6 rate and policy form review process for policies for specific disease, accident,  
7 injury, hospital indemnity, dental care, vision care, disability income, long-  
8 term care, student health insurance coverage, Medicare supplement insurance  
9 coverage, or other limited benefit coverage; to short-term, limited-duration  
10 health insurance coverage; or to benefit plans that are paid directly to an  
11 individual insured or to the individual's assigns and for which the amount of  
12 the benefit is not based on potential medical costs or actual costs incurred.  
13 Premium rates and rules for the classification of risk for Medicare supplement  
14 insurance policies shall be governed by section 4051 of this title.

15 (2) The policy forms for major medical insurance coverage, as well as  
16 the policy forms, premium rates, and rules for the classification of risk for the  
17 other lines of insurance described in subdivision (1) of this subsection shall be  
18 reviewed and approved or disapproved by the Commissioner. In making a  
19 determination, the Commissioner shall consider whether a policy form,  
20 premium rate, or rule is affordable and is not unjust, unfair, inequitable,  
21 misleading, or contrary to the laws of this State; and, for a policy form for

1 major medical insurance coverage, whether it ensures equal access to  
2 appropriate mental health care in a manner equivalent to other aspects of health  
3 care as part of an integrated, holistic system of care. The Commissioner shall  
4 make a determination within 30 days after the date the insurer filed the policy  
5 form, premium rate, or rule with the Department. At the expiration of the 30-  
6 day period, the form, premium rate, or rule shall be deemed approved unless  
7 prior to then it has been affirmatively approved or disapproved by the  
8 Commissioner or found to be incomplete. The Commissioner shall notify a  
9 health insurer in writing if the insurer files any form, premium rate, or rule  
10 containing a provision that does not meet the standards expressed in this  
11 subsection. In such notice, the Commissioner shall state that a hearing will be  
12 granted within 20 days upon the insurer's written request.

13 (i) Notwithstanding the procedures and timelines set forth in subsections  
14 (a) through (e) of this section, the Board may establish, by rule, a streamlined  
15 rate review process for certain rate decisions, including proposed rates  
16 affecting fewer than a minimum number of covered lives and proposed rates  
17 for which a de minimis increase, as defined by the Board by rule, is sought.

18 § 4027. FILING FEES

19 Each filing of a policy, contract, or document form or premium rates or  
20 rules, submitted pursuant to section 4026 of this title, shall be accompanied by

1 payment to the Commissioner or the Green Mountain Care Board, as  
2 appropriate, of a nonrefundable fee of \$150.00.

3 § 4028. FORM AND CONTENTS OF POLICY

4 No policy of individual health insurance shall be delivered or issued for  
5 delivery to any person in this State unless all of the following conditions are  
6 met:

7 (1) The policy sets forth all of the monetary and other considerations for  
8 the policy.

9 (2) The policy sets forth the time at which the insurance takes effect and  
10 terminates.

11 (3) The policy purports to insure only one person, except that a policy  
12 may insure, originally or by subsequent amendment, upon the application of an  
13 adult member of a family who shall be deemed the policyholder, any two or  
14 more eligible members of that family, including a spouse or civil union  
15 partner, dependent children or any children under a specified age that shall not  
16 exceed 26 years of age, and any other person dependent upon the policyholder.

17 (4) The style, arrangement, and overall appearance of the policy give no  
18 undue prominence to any portion of the text, and every printed portion of the  
19 text of the policy and of any endorsements or attached papers is plainly printed  
20 in light-faced type of a style in general use, the size of which shall be uniform  
21 and not less than 10-point with a lowercase unspaced alphabet length not less



1 than 120-point. As used in this subdivision, the “text” includes all printed  
2 matter except the name and address of the insurer; the name or title of the  
3 policy; the brief description, if any; and the captions and subcaptions.

4 (5) The exceptions and reductions of indemnity are set forth in the  
5 policy and, except those that are set forth in sections 4029 and 4030 of this  
6 title, are printed, at the insurer’s option, either with the benefit provision to  
7 which they apply or under an appropriate caption such as “EXCEPTIONS” or  
8 “EXCEPTIONS AND REDUCTIONS”; provided, however, that if an  
9 exception or reduction specifically applies only to a particular benefit of the  
10 policy, the statement of the exception or reduction shall be included with the  
11 benefit provision to which it applies.

12 (6) Each policy form, including riders and endorsements, is identified by  
13 a form number in the lower left-hand corner of the first page of the form.

14 (7) The policy does not contain any provision purporting to make any  
15 portion of the charter, rules, constitution, or bylaws of the health insurer a part  
16 of the policy unless that portion is set forth in full in the policy, except in the  
17 case of the incorporation of, or reference to, a statement of rates or  
18 classification of risks or a short-rate table filed with the Commissioner.

19 (8) Either prominently printed on or attached to the first page of the  
20 policy is a notice to the effect that during a period of 30 days following the  
21 date the policy is delivered to persons eligible for Medicare by reason of age,

1 and 10 days following the date of delivery to all other persons, the policy may  
2 be surrendered to the insurer together with a written request for cancellation of  
3 the policy, and that in such event, the insurer will refund any premium paid,  
4 including any policy fees or other charges; provided, however, that this  
5 subdivision shall not apply to single premium nonrenewable policies insuring  
6 against accident only or medical costs or accidental bodily injury only.

7 § 4029. REQUIRED STANDARD POLICY PROVISIONS

8 Except as provided in section 4031 of this title, each health insurance policy  
9 delivered or issued for delivery to any person in this State shall contain the  
10 provisions specified in this section using the language set forth in this section;  
11 provided, however, that a health insurer may, at its option, substitute different  
12 language approved by the Commissioner for one or more provisions, provided  
13 the substituted language is not less favorable in any respect to the insured or  
14 covered individual than the language used in this section. The provisions  
15 specified in this section shall be preceded individually by the caption appearing  
16 in this section or, at the option of the health insurer, by such appropriate  
17 captions or subcaptions as the Commissioner may approve:

18 (1) ENTIRE CONTRACT; CHANGES: This policy, including the  
19 endorsements and the attached papers, if any, constitutes the entire contract of  
20 insurance. No change in this policy shall be valid until approved by an  
21 executive officer of the insurer and unless such approval be endorsed hereon or

1 attached hereto. No agent has authority to change this policy or to waive any  
2 of its provisions.

3 (2) TIME LIMIT ON CERTAIN DEFENSES: (a) After three years  
4 from the date of issue of this policy no misstatements, except fraudulent  
5 misstatements, made by the applicant in the application for such policy, shall  
6 be used to void the policy or to deny a claim for loss incurred or disability (as  
7 defined in the policy) commencing after the expiration of such three-year  
8 period.

9 (The foregoing policy provision shall not be so construed as to affect any  
10 legal requirement for avoidance of a policy or denial of a claim during such  
11 initial three-year period, nor to limit the application of subdivisions 4030(1)–  
12 (5) of this title in the event of misstatement with respect to age or occupation  
13 or other insurance.) (A policy which the insured has the right to continue in  
14 force subject to its terms by the timely payment of premium (1) until at least  
15 age 50, or (2) in the case of a policy issued after age 44, for at least five years  
16 from its date of issue, may contain in lieu of the foregoing the following  
17 provision (from which the clause in parentheses may be omitted at the  
18 insurer's option) under the caption "INCONTESTABLE":

19 After this policy has been in force for a period of three years during the  
20 lifetime of the insured (excluding any period during which the insured is

1 disabled), it shall become incontestable as to the statements contained in the  
2 application.)

3 (b) No claim for loss incurred or disability (as defined in the policy)  
4 commencing after three years from the date of issue of this policy shall be  
5 reduced or denied on the ground that a disease or physical condition not  
6 excluded from coverage by name or specific description effective on the date  
7 of loss had existed prior to the effective date of coverage of this policy.

8 (3) GRACE PERIOD: A grace period of . . . (insert a number not less  
9 than “7” for weekly premium policies, “10” for monthly premium policies and  
10 “31” for all other policies) days will be granted for the payment of each  
11 premium falling due after the first premium, during which grace period the  
12 policy shall continue in force.

13 (A policy which contains a cancellation provision may add, at the end of  
14 the above provision,

15 subject to the right of the insurer to cancel in accordance with the  
16 cancellation provision hereof,

17 A policy in which the insurer reserves the right to refuse any renewal  
18 shall have, at the beginning of the above provision,

19 Unless not less than five days prior to the premium due date the insurer has  
20 delivered to the insured or has mailed to his or her last address as shown by the

1 records of the insurer written notice of its intention not to renew this policy  
2 beyond the period for which the premium has been accepted.)

3 (4) REINSTATEMENT: If any renewal premium be not paid within the  
4 time granted the insured for payment, a subsequent acceptance of premium by  
5 the insurer or by any agent duly authorized by the insurer to accept such  
6 premium, without requiring in connection therewith an application for  
7 reinstatement, shall reinstate the policy; provided, however, that if the insurer  
8 or such agent requires an application for reinstatement and issues a conditional  
9 receipt for the premium tendered, the policy will be reinstated upon approval  
10 of such application by the insurer or, lacking such approval, upon the 45th day  
11 following the date of such conditional receipt unless the insurer has previously  
12 notified the insured in writing of its disapproval of such application. The  
13 reinstated policy shall cover only loss resulting from such accidental injury as  
14 may be sustained after the date of reinstatement and loss due to such sickness  
15 as may begin more than ten days after such date. In all other respects the  
16 insured and insurer shall have the same rights thereunder as they had under the  
17 policy immediately before the due date of the defaulted premium, subject to  
18 any provisions endorsed hereon or attached hereto in connection with the  
19 reinstatement. Any premium accepted in connection with a reinstatement shall  
20 be applied to a period for which premium has not been previously paid, but not  
21 to any period more than sixty days prior to the date of reinstatement.

1           (The last sentence of the above provision may be omitted from any  
2           policy which the insured has the right to continue in force subject to its terms  
3           by the timely payment of premiums (1) until at least age 50, or (2) in the case  
4           of a policy issued after age 44, for at least five years from its date of issue.)

5           (5) NOTICE OF CLAIM: Written notice of claim must be given to the  
6           insurer within 20 days after the occurrence or commencement of any loss  
7           covered by the policy, or as soon thereafter as is reasonably possible. Notice  
8           given by or on behalf of the insured or the beneficiary to the insurer at . . . .  
9           (insert the location of such office as the insurer may designate for the purpose),  
10          or to any authorized agent of the insurer, with information sufficient to identify  
11          the insured, shall be deemed notice to the insurer.

12          (In a policy providing a loss-of-time benefit which may be payable for at  
13          least two years, an insurer may at its option insert the following between the  
14          first and second sentences of the above provision:

15          Subject to the qualifications set forth below, if the insured suffers loss of  
16          time on account of disability for which indemnity may be payable for at least  
17          two years, he or she shall, at least once in every six months after having given  
18          notice of claim, give to the insurer notice of continuance of said disability,  
19          except in the event of legal incapacity. The period of six months following any  
20          filing of proof by the insured or any payment by the insurer on account of such  
21          claim or any denial of liability in whole or in part by the insurer shall be

1 excluded in applying this provision. Delay in the giving of such notice shall  
2 not impair the insured's right to any indemnity which would otherwise have  
3 accrued during the period of six months preceding the date on which such  
4 notice is actually given.)

5 (6) CLAIM FORMS: The insurer, upon receipt of a notice of claim, will  
6 furnish to the claimant such forms as are usually furnished by it for filing  
7 proofs of loss. If such forms are not furnished within 15 days after the giving  
8 of such notice the claimant shall be deemed to have complied with the  
9 requirements of this policy as to proof of loss upon submitting, within the time  
10 fixed in the policy for filing proofs of loss, written proof covering the  
11 occurrence, the character and the extent of the loss for which claim is made.

12 (7) PROOFS OF LOSS: Written proof of loss must be furnished to the  
13 insurer at its said office in case of claim for loss for which this policy provides  
14 any periodic payment contingent upon continuing loss within 90 days after the  
15 termination of the period for which the insurer is liable and in case of claim for  
16 any other loss within 90 days after the date of such loss. Failure to furnish  
17 such proof within the time required shall not invalidate nor reduce any claim if  
18 it was not reasonably possible to give proof within such time, provided such  
19 proof is furnished as soon as reasonably possible and in no event, except in the  
20 absence of legal capacity, later than one year from the time proof is otherwise  
21 required.

1       (8) TIME OF PAYMENT OF CLAIMS: Indemnities payable under this  
2       policy for any loss other than loss for which this policy provides any periodic  
3       payment will be paid immediately upon receipt of due written proof of such  
4       loss. Subject to due written proof of loss, all accrued indemnities for loss for  
5       which this policy provides periodic payment will be paid . . . (insert period for  
6       payment which must not be less frequently than monthly) and any balance  
7       remaining unpaid upon the termination of liability will be paid immediately  
8       upon receipt of due written proof.

9       (9) PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in  
10       accordance with the beneficiary designation and the provisions respecting such  
11       payment which may be prescribed herein and effective at the time of payment.  
12       If no such designation or provision is then effective, such indemnity shall be  
13       payable to the estate of the insured. Any other accrued indemnities unpaid at  
14       the insured's death may, at the option of the insurer, be paid either to such  
15       beneficiary or to such estate. All other indemnities will be payable to the  
16       insured.

17       (The following provisions, or either of them, may be included with the  
18       foregoing provision at the option of the insurer:

19       If any indemnity of this policy shall be payable to the estate of the insured,  
20       or to an insured or beneficiary who is a minor or otherwise not competent to  
21       give a valid release, the insurer may pay such indemnity, up to an amount not



1 exceeding \$. . . . . (insert an amount which shall not exceed \$1,000.00), to any  
2 relative by blood or connection by civil marriage of the insured or beneficiary  
3 who is deemed by the insurer to be equitably entitled thereto. Any payment  
4 made by the insurer in good faith pursuant to this provision shall fully  
5 discharge the insurer to the extent of such payment.

6 Subject to any written direction of the insured in the application or  
7 otherwise all or a portion of any indemnities provided by this policy on  
8 account of hospital, nursing, medical, or surgical services may, at the insurer's  
9 option and unless the insured requests otherwise in writing not later than the  
10 time of filing proofs of such loss, be paid directly to the hospital or person  
11 rendering such services; but it is not required that the service be rendered by a  
12 particular hospital or person.)

13 (10) PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its  
14 own expense shall have the right and the opportunity to examine the person of  
15 the insured when and as often as it may reasonably require during the  
16 pendency of a claim hereunder and to make an autopsy in case of death where  
17 it is not forbidden by law.

18 (11) LEGAL ACTIONS: No action at law or in equity shall be brought to  
19 recover on this policy prior to the expiration of 60 days after written proof of  
20 loss has been furnished in accordance with the requirements of this policy. No

1 such action shall be brought after the expiration of three years after the time  
2 written proof of loss is required to be furnished.

3 (12) CHANGE OF BENEFICIARY: Unless the insured makes an  
4 irrevocable designation of beneficiary, the right to change of beneficiary is  
5 reserved to the insured and the consent of the beneficiary or beneficiaries shall  
6 not be requisite to surrender or assignment of this policy or to any change of  
7 beneficiary or beneficiaries, or to any other changes in this policy.

8 (The first clause of this provision, relative to the irrevocable designation  
9 of beneficiary, may be omitted at the insurer's option.)

10 § 4030. OPTIONAL STANDARD POLICY PROVISIONS

11 Except as provided in section 4031 of this title, no health insurance policy  
12 delivered or issued for delivery to any person in this State shall contain  
13 provisions respecting the matters set forth in this section unless the provisions  
14 use the language set forth in this section; provided, however, that a health  
15 insurer may, at its option, substitute different language approved by the  
16 Commissioner for one or more provisions, provided the substituted language is  
17 not less favorable in any respect to the insured or covered individual than the  
18 language used in this section. Any provision set forth in this section that is  
19 contained in the policy shall be preceded individually by the appropriate  
20 caption appearing in this section or, at the option of the health insurer, by such  
21 appropriate captions or subcaptions as the Commissioner may approve:

1           (1) CHANGE OF OCCUPATION: If the insured be injured or contract  
2           sickness after having changed his or her occupation to one classified by the  
3           insurer as more hazardous than that stated in this policy or while doing for  
4           compensation anything pertaining to an occupation so classified, the insurer  
5           will pay only such portion of the indemnities provided in this policy as the  
6           premium paid would have purchased at the rates and within the limits fixed by  
7           the insurer for such more hazardous occupation. If the insured changes his or  
8           her occupation to one classified by the insurer as less hazardous than that  
9           stated in this policy, the insurer, upon receipt of proof of such change of  
10           occupation, will reduce the premium rate accordingly, and will return the  
11           excess pro rata unearned premium from the date of change of occupation or  
12           from the policy anniversary date immediately preceding receipt of such proof,  
13           whichever is the more recent. In applying this provision, the classification of  
14           occupational risk and the premium rates shall be such as have been last filed by  
15           the insurer prior to the occurrence of the loss for which the insurer is liable or  
16           prior to date of proof of change in occupation with the state official having  
17           supervision of insurance in the state where the insured resided at the time this  
18           policy was issued; but if such filing was not required, then the classification of  
19           occupational risk and the premium rates shall be those last made effective by  
20           the insurer in such state prior to the occurrence of the loss or prior to the date  
21           of proof of change in occupation.

1           (2) MISSTATEMENT OF AGE: If the age of the insured has been  
2           misstated, all amounts payable under this policy shall be such as the premium  
3           paid would have purchased at the correct age.

4           (3) OTHER INSURANCE IN THIS INSURER: If an accident or  
5           sickness or accident and sickness policy or policies previously issued by the  
6           insurer to the insured be in force concurrently herewith, making the aggregate  
7           indemnity for .... (insert type of coverage or coverages) in excess of \$  
8           ..... (insert maximum limit of indemnity or indemnities) the excess  
9           insurance shall be void and all premiums paid for such excess shall be returned  
10          to the insured or to his or her estate.

11          or, in lieu thereof:

12          Insurance effective at any one time on the insured under a like policy or  
13          policies in this insurer is limited to the one such policy elected by the insured,  
14          his or her beneficiary or his or her estate, as the case may be, and the insurer  
15          will return all premiums paid for all other such policies.

16          (4) INSURANCE WITH OTHER INSURERS: If there be other valid  
17          coverage, not with this insurer, providing benefits for the same loss on a  
18          provision of service basis or on an expense incurred basis and of which this  
19          insurer has not been given written notice prior to the occurrence or  
20          commencement of loss, the only liability under any expense incurred coverage  
21          of this policy shall be for such proportion of the loss as the amount which

1 would otherwise have been payable hereunder plus the total of the like  
2 amounts under all such other valid coverages for the same loss of which this  
3 insurer had notice bears to the total like amounts under all valid coverages for  
4 such loss, and for the return of such portion of the premiums paid as shall  
5 exceed the pro rata portion for the amount so determined. For the purpose of  
6 applying this provision when other coverage is on a provision of service basis,  
7 the “like amount” of such other coverage shall be taken as the amount which  
8 the services rendered would have cost in the absence of such coverage.

9 (If the foregoing policy provision is included in a policy which also  
10 contains the next following policy provision there shall be added to the caption  
11 of the foregoing provision the phrase “—EXPENSE INCURRED  
12 BENEFITS.” The insurer may, at its option, include in this provision a  
13 definition of “other valid coverage,” approved as to form by the  
14 Commissioner, which definition shall be limited in subject matter to coverage  
15 provided by organizations subject to regulation by insurance law or by  
16 insurance authorities of this or any other state of the United States or any  
17 province of Canada, and by hospital or medical service organizations, and to  
18 any other coverage the inclusion of which may be approved by the  
19 Commissioner. In the absence of such definition such term shall not include  
20 group insurance, automobile medical payments insurance, or coverage  
21 provided by hospital or medical service organizations or by union welfare

1 plans or employer or employee benefit organizations. For the purpose of  
2 applying the foregoing policy provision with respect to any insured, any  
3 amount of benefit provided for such insured pursuant to any compulsory  
4 benefit statute (including any workers' compensation or employer's liability  
5 statute) whether provided by a governmental agency or otherwise shall in all  
6 cases be deemed to be "other valid coverage" of which the insurer has had  
7 notice. In applying the foregoing policy provision no third party liability  
8 coverage shall be included as "other valid coverage.")

9 (5) INSURANCE WITH OTHER INSURERS: If there be other valid  
10 coverage, not with this insurer, providing benefits for the same loss on other  
11 than an expense incurred basis and of which this insurer has not been given  
12 written notice prior to the occurrence or commencement of loss, the only  
13 liability for such benefits under this policy shall be for such proportion of the  
14 indemnities otherwise provided hereunder for such loss as the like indemnities  
15 of which the insurer had notice (including the indemnities under this policy)  
16 bear to the total amount of all like indemnities for such loss, and for the return  
17 of such portion of the premium paid as shall exceed the pro rata portion for the  
18 indemnities thus determined.

19 (If the foregoing policy provision is included in a policy which also  
20 contains the next preceding policy provision there shall be added to the caption  
21 of the foregoing provision the phrase "—OTHER BENEFITS." The insurer

1 may, at its option, include in this provision a definition of “other valid  
2 coverage,” approved as to form by the Commissioner, which definition shall be  
3 limited in subject matter to coverage provided by organizations subject to  
4 regulation by insurance law or by insurance authorities of this or any other  
5 state of the United States or any province of Canada, and to any other coverage  
6 the inclusion of which may be approved by the Commissioner. In the absence  
7 of such definition such term shall not include group insurance, or benefits  
8 provided by union welfare plans or by employer or employee benefit  
9 organizations. For the purpose of applying the foregoing policy provision with  
10 respect to any insured, any amount of benefit provided for such insured  
11 pursuant to any compulsory benefit statute (including any workers’  
12 compensation or employer’s liability statute) whether provided by a  
13 governmental agency or otherwise shall in all cases be deemed to be “other  
14 valid coverage” of which the insurer has had notice. In applying the foregoing  
15 policy provision no third party liability coverage shall be included as “other  
16 valid coverage.”)

17 (6) RELATION OF EARNINGS TO INSURANCE: If the total monthly  
18 amount of loss of time benefits promised for the same loss under all valid loss  
19 of time coverage upon the insured, whether payable on a weekly or monthly  
20 basis, shall exceed the monthly earnings of the insured at the time disability  
21 commenced or his or her average monthly earnings for the period of two years

1 immediately preceding a disability for which claim is made, whichever is the  
2 greater, the insurer will be liable only for such proportionate amount of such  
3 benefits under this policy as the amount of such monthly earnings or such  
4 average monthly earnings of the insured bears to the total amount of monthly  
5 benefits for the same loss under all such coverage upon the insured at the time  
6 such disability commences and for the return of such part of the premiums paid  
7 during such two years as shall exceed the pro rata amount of the premiums for  
8 the benefits actually paid hereunder; but this shall not operate to reduce the  
9 total monthly amount of benefits payable under all such coverage upon the  
10 insured below the sum of \$200.00 or the sum of the monthly benefits specified  
11 in such coverages, whichever is the lesser, nor shall it operate to reduce  
12 benefits other than those payable for loss of time.

13 (The foregoing policy provision may be inserted only in a policy which  
14 the insured has the right to continue in force subject to its terms by the timely  
15 payment of premiums (1) until at least age 50; or (2) in the case of a policy  
16 issued after age 44, for at least five years from its date of issue. The insurer  
17 may, at its option, include in this provision a definition of “valid loss of time  
18 coverage,” approved as to form by the Commissioner, which definition shall be  
19 limited in subject matter to coverage provided by governmental agencies or by  
20 organizations subject to regulation by insurance law or by insurance authorities  
21 of this or any other state of the United States or any province of Canada, or to



1 any other coverage the inclusion of which may be approved by the  
2 Commissioner or any combination of such coverages. In the absence of such  
3 definition such term shall not include any coverage provided for such insured  
4 pursuant to any compulsory benefit statute (including any workers'  
5 compensation or employer's liability statute), or benefits provided by union  
6 welfare plans or by employer or employee benefit organizations.)

7 (7) UNPAID PREMIUM: Upon the payment of a claim under this policy,  
8 any premium then due and unpaid or covered by any note or written order may  
9 be deducted therefrom.

10 (8) CANCELLATION: The insurer may cancel this policy at any time by  
11 written notice delivered to the insured, or mailed to his or her last address as  
12 shown by the records of the insurer, stating when, not less than five days  
13 thereafter, such cancellation shall be effective; and after the policy has been  
14 continued beyond its original term the insured may cancel this policy at any  
15 time by written notice delivered or mailed to the insurer, effective upon receipt  
16 or on such later date as may be specified in such notice. In the event of  
17 cancellation, the insurer will return promptly the unearned portion of any  
18 premium paid. If the insured cancels, the earned premium shall be computed  
19 by the use of the short-rate table last filed with the state official having  
20 supervision of insurance in the state where the insured resided when the policy  
21 was issued. If the insurer cancels, the earned premium shall be computed pro

1     rata. Cancellation shall be without prejudice to any claim originating prior to  
2     the effective date of cancellation.

3         (9) CONFORMITY WITH STATE STATUTES: Any provision of this  
4     policy which, on its effective date, is in conflict with the statutes of the state in  
5     which the insured resides on such date is hereby amended to conform to the  
6     minimum requirements of such statutes.

7         (10) ILLEGAL OCCUPATION: The insurer shall not be liable for any  
8     loss to which a contributing cause was the insured's commission of or attempt  
9     to commit a felony or to which a contributing cause was the insured's being  
10    engaged in an illegal occupation.

11    § 4031. OMISSION OF INAPPLICABLE OR INCONSISTENT

12            STANDARD PROVISIONS

13         If any provision of sections 4029 and 4030 of this title is in whole or in part  
14     inapplicable to or inconsistent with the coverage provided by a particular form  
15     of policy, the health insurer, with the approval of the Commissioner, shall omit  
16     from such policy any inapplicable provision or part of a provision, and shall  
17     modify any inconsistent provision or part of the provision in such manner as to  
18     make the provision as contained in the policy consistent with the coverage  
19     provided by the policy.

1     § 4032. ORDER OF STANDARD POLICY PROVISIONS

2         The provisions specified in sections 4029 and 4030 of this title, or any  
3         corresponding provisions used in lieu of those provisions as permitted by those  
4         sections, shall either be printed in the same order as the provisions are set forth  
5         in those sections or, at the option of the health insurer, any such provision may  
6         appear as a unit in any part of the policy, with other provisions to which it may  
7         be logically related, provided the resulting policy shall not be in whole or in  
8         part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a  
9         person to whom the policy is offered, delivered, or issued.

10    § 4033. DISCRETIONARY CLAUSES PROHIBITED

11         (a) The purpose of this section is to ensure that health insurance benefits,  
12         disability income protection coverage, and life insurance benefits are  
13         contractually guaranteed and to avoid the conflict of interest that may occur  
14         when the carrier responsible for providing benefits has discretionary authority  
15         to decide what benefits are due. Nothing in this section shall be construed to  
16         impose any requirement or duty on any person other than a health insurer or a  
17         health insurer offering disability income protection coverage or life insurance.

18         (b) As used in this section:

19                 (1) “Disability income protection coverage” means a policy, contract,  
20         certificate, or agreement that provides for weekly, monthly, or other periodic

1 payments for a specified period during the continuance of disability resulting  
2 from illness, injury, or a combination of illness and injury.

3 (2) "Health insurer" has the same meaning as in section 4021 of this  
4 chapter and, as used in this section, also includes entities offering policies for  
5 specific disease, accident, injury, hospital indemnity, dental care, disability  
6 income, long-term care, and other limited benefit coverage.

7 (3) "Life insurance" means a policy, contract, certificate, or agreement  
8 that provides life insurance as defined in subdivision 3301(a)(1) of this title.

9 (c) No policy, contract, certificate, or agreement offered or issued in this  
10 State by a health insurer to provide, deliver, arrange for, pay for, or reimburse  
11 any of the costs of health care services may contain a provision purporting to  
12 reserve discretion to the health insurer to interpret the terms of the contract or  
13 to provide standards of interpretation or review that are inconsistent with the  
14 laws of this State, and any such provision in a policy, contract, certificate, or  
15 agreement shall be null and void.

16 (d) No policy, contract, certificate, or agreement offered or issued in this  
17 State providing for disability income protection coverage may contain a  
18 provision purporting to reserve discretion to the insurer to interpret the terms  
19 of the contract or to provide standards of interpretation or review that are  
20 inconsistent with the laws of this State, and any such provision in a policy,  
21 contract, certificate, or agreement shall be null and void.

1       (e) No policy, contract, certificate, or agreement of life insurance offered or  
2       issued in this State shall contain a provision purporting to reserve discretion to  
3       the insurer to interpret the terms of the contract or to provide standards of  
4       interpretation or review that are inconsistent with the laws of this State, and  
5       any such provision in a policy, contract, certificate, or agreement shall be null  
6       and void.

7       § 4034. REQUIREMENTS OF OTHER JURISDICTIONS

8       (a) Any policy of a foreign or alien insurer, when delivered or issued for  
9       delivery to any person in this State, may contain any provision that is not less  
10      favorable to the covered individual than the provisions of this chapter and that  
11      is prescribed or required by the law of the state under which the insurer is  
12      organized.

13      (b) Any policy of a domestic health insurer, when issued for delivery in any  
14      other state or country, may contain any provision permitted or required by the  
15      laws of such other state or country.

16      § 4035. POLICIES NOT AFFECTED

17      Nothing in sections 4018–4020, 4023, 4028–4032, 4034, 4036, and 4037 of  
18      this title shall apply to or affect:

19           (1) any policy of workers' compensation insurance or any policy of  
20      liability insurance, with or without supplementary coverage;

1           (2) any policy or contract of reinsurance;

2           (3) any blanket or group policy of insurance enumerated in sections  
3           4041–4043 and 4052 of this title, except as otherwise provided in those  
4           sections; or

5           (4) life insurance, endowment, or annuity contracts, or contracts  
6           supplemental to those contracts, that contain only such provisions relating to  
7           accident and sickness insurance as:

8                   (A) provide additional benefits in case of death or dismemberment or  
9                   loss of sight by accident; or

10                   (B) operate to safeguard the contracts against lapse or to give a  
11                   special surrender value or special benefit or an annuity in the event that the  
12                   insured or annuitant becomes totally and permanently disabled, as defined by  
13                   the contract or supplemental contract.

14           § 4036. NONCONFORMING POLICIES

15           (a) A health insurance policy shall not contain any provision that makes the  
16           policy or any portion of the policy less favorable in any respect to the covered  
17           individual than the provisions of the policy that are regulated by sections 4029  
18           and 4030 of this title.

19           (b) A policy delivered or issued for delivery to any person in this State in  
20           violation of sections 4029 and 4030 of this title shall be held valid but shall be  
21           construed as provided in this chapter. When any provision in a policy

1 regulated by sections 4029 and 4030 is in conflict with any provision of those  
2 sections, the rights, duties, and obligations of the health insurer and the  
3 covered individual shall be governed by the provisions of those sections.

4 § 4037. APPLICATIONS FOR INSURANCE

5 (a)(1) A covered individual shall not be bound by any statement made in an  
6 application for a policy unless a copy of the application is attached to or  
7 endorsed on the policy as a part of the policy when issued.

8 (2) If a policy delivered or issued for delivery to any person in this State  
9 is reinstated or renewed and the covered individual or assignee of the policy  
10 makes a written request to the health insurer for a copy of the application, if  
11 any, for such reinstatement or renewal, the health insurer shall deliver or mail a  
12 copy of the application to the individual making the request within 15 days  
13 after the receipt of the request. If the health insurer does not deliver or mail the  
14 copy within 15 days, the health insurer shall be precluded from introducing the  
15 application as evidence in any action or proceeding based on or involving the  
16 policy or its reinstatement or renewal.

17 (b) No alteration of a written application for a policy shall be made by any  
18 person other than the applicant without the applicant's written consent, except  
19 that insertions may be made by the health insurer, for administrative purposes  
20 only, in a manner that indicates clearly that the insertions are not to be ascribed  
21 to the applicant.

1       (c) The falsity of any statement in an application for a policy shall not bar  
2       the right to recovery under the policy unless the false statement materially  
3       affected either the acceptance of the risk or the hazard assumed by the health  
4       insurer.

5       § 4038. RULEMAKING ON POLICY FILINGS

6       The Commissioner may adopt such reasonable rules concerning the  
7       procedure for the filing or submission of policies subject to sections 4023 and  
8       4028–4030 of this title as are necessary, proper, or advisable for the  
9       administration of these sections. This provision shall not abridge any other  
10      authority granted to the Commissioner by law.

11                   Subchapter 3. Group Coverage

12      § 4041. GROUP HEALTH INSURANCE POLICIES; DEFINITIONS

13      (a) As used in this section:

14           (1) “Employees” includes the officers, managers, and employees of the  
15      employer; the partners, if the employer is a partnership; the officers, managers,  
16      and employees of subsidiary or affiliated corporations of a corporation  
17      employer; and the individual proprietors, partners, and employees of  
18      individuals and firms, the business of which is controlled by the insured  
19      employer through stock ownership, contract, or otherwise.

20           (2) “Employer” may be deemed to include any municipal or  
21      governmental entity or officer, or the appropriate officer for an unincorporated



1 town or gore or for the Unified Towns and Gores of Essex County, as well as  
2 private individuals, partnerships, and corporations.

3 (b) Group health insurance is a form of health insurance that covers one or  
4 more persons, with or without their dependents, that is issued upon the  
5 following basis:

6 (1)(A) Under a policy issued to an employer, who is deemed the  
7 policyholder, insuring at least one employee of the employer, for the benefit of  
8 persons other than the employer.

9 (B) In accordance with section 3368 of this title, an employer  
10 domiciled in a jurisdiction other than Vermont that has more than 25  
11 certificate-holder employees whose principal worksite and domicile is in  
12 Vermont and that is defined as a large group in its own jurisdiction and under  
13 the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 1304,  
14 as amended by the Health Care and Education Reconciliation Act of 2010,  
15 Pub. L. No. 111-152, may purchase insurance in the large group health  
16 insurance market for its Vermont-domiciled certificate-holder employees.

17 (2)(A) Under a policy issued:

18 (i) to an association, a trust, or one or more trustees of a fund  
19 established by one or more associations otherwise eligible for the issuance of a  
20 policy under this subdivision (2) and maintained, directly or indirectly, by one

1 or more associations for the benefit of its members or a contract or plan issued  
2 by such an association or trust; or

3 (ii) by a multiple employer welfare arrangement as defined in the  
4 Employee Retirement Income Security Act of 1974, as amended.

5 (B)(i) The association or associations shall have:

6 (I) a minimum of 100 persons at the time of incorporation or  
7 formation;

8 (II) been organized and maintained in good faith for purposes  
9 other than that of obtaining insurance;

10 (III) been in active existence for at least one year; and

11 (IV) a constitution and bylaws that provide that:

12 (aa) the association or associations hold regular meetings  
13 not less than annually to further purposes of the members;

14 (bb) except for credit unions, the association or associations  
15 collect dues or solicit contributions from members; and

16 (cc) the members constitute a majority of the voting power  
17 of the association for all purposes and have representation on the governing  
18 board and committees.

19 (ii)(I) The association or associations shall not be controlled by a  
20 health insurer, as evidenced by the operation of the association or associations.

1                   (II) The following factors may be used as evidence to  
2                   determine whether an association is a health insurer-operated association;  
3                   provided, however, that the presence or absence of one or more of these factors  
4                   shall not serve to limit or be dispositive of such a determination:

5                               (aa) common board members, officers, executives, or  
6                   employees;

7                               (bb) common ownership of the health insurer and the  
8                   association, or of the association and another eligible group; and

9                               (cc) common use of office space or equipment used by the  
10                  health insurer to transact insurance.

11                   (C) An association's members shall have a shared or common  
12                  purpose that is not primarily a business or customer relationship.

13                   (D)(i) A policy issued by an association shall not insure persons other  
14                  than the members or employees of the association or associations, or  
15                  employees of members, or all of any class or classes of employees of the  
16                  association, associations, or members, together, in each case, with the  
17                  employees' or members' dependents, as applicable, for the benefit of persons  
18                  other than the employee's employer.

19                               (ii) A policy issued by an association shall insure all eligible  
20                  persons, except those who reject coverage in writing.

1           (E) An association shall not use the solicitation of insurance as the  
2           primary method of obtaining new members.

3           (F) If a health insurer collects membership fees or dues on behalf of  
4           an association, the health insurer shall disclose to the members of the  
5           association that the health insurer is billing and collecting membership fees and  
6           dues on behalf of the association.

7           (3)(A) Under a policy issued to a trust, or to one or more trustees of a  
8           fund established and maintained, directly or indirectly, by:

9                   (i) two or more employers;

10                  (ii) one or more labor unions or similar employee organizations;

11           or

12                  (iii) one or more employers and one or more labor unions or  
13           similar employee organizations.

14           (B)(i) A policy under this subdivision (3) must be issued to the trust  
15           or trustees for the purpose of insuring all of the employees of the employers or  
16           all of the members of the unions or organizations, or all of any class or classes  
17           of employees or members, together, in each case, with the employees' or  
18           members' dependents, as applicable, for the benefit of persons other than the  
19           employers or the unions or organizations.

20                  (ii) A policy issued to a trust shall insure all eligible persons,  
21           except those who reject coverage in writing.

1           (4) Under a policy issued to any other substantially similar group that, in  
2           the discretion of the Commissioner, may be subject to the issuance of a group  
3           accident and sickness policy or contract.

4           § 4042. GROUP INSURANCE POLICIES; REQUIRED POLICY

5                   PROVISIONS

6           (a) Terms and conditions. No group health insurance policy shall contain  
7           any provision relating to notice of claim, proofs of loss, time of payment of  
8           claims, or time within which legal action must be brought upon the policy that,  
9           in the opinion of the Commissioner, is less favorable to the persons insured  
10           than would be permitted by the provisions set forth in section 4029 of this title.  
11           In addition, each such policy shall contain in substance the following  
12           provisions:

13                   (1) A provision that the policy; the application of the policyholder, if an  
14                   application or copy is attached to the policy; and the individual applications, if  
15                   any, submitted by the employees or members in connection with the policy  
16                   shall constitute the entire contract between the parties, and that all statements,  
17                   in the absence of fraud, made by any applicant or applicants shall be deemed  
18                   representations and not warranties, and that no such statement shall avoid the  
19                   insurance or reduce benefits under the policy unless contained in a written  
20                   application, of which a copy is attached to the policy.

1           (2) A provision that the health insurer will furnish to the policyholder,  
2           for delivery to each employee or member of the insured group, an individual  
3           certificate setting forth in summary form a statement of the essential features  
4           of the insurance coverage of the employee or member and to whom benefits  
5           are payable under the policy. If dependents are included in the coverage, only  
6           one certificate need be issued for each family unit.

7           (3) A provision that to the group originally insured may be added from  
8           time to time eligible new employees or members or dependents, as the case  
9           may be, in accordance with the terms of the policy.

10           (4) A provision that the health insurer shall not exclude part-time  
11           employees and shall offer the same group health benefits to part-time  
12           employees as it offers to the employee groups of which the part-time  
13           employees would be members if they were full-time employees. The health  
14           insurer shall offer to include the part-time employees as part of the employer's  
15           employee group, at the full rate to be paid by the employer and the employee,  
16           at a rate prorated between the employer and the employee, or at the employee's  
17           expense. As used in this subdivision, "part-time employee" means any  
18           employee who works a minimum of at least 17.5 hours per week.

1       **(b) Protections for covered individuals.**

2               **(1) Preexisting condition exclusions. A group insurance policy shall not**  
3       **contain any provision that excludes, restricts, or otherwise limits coverage**  
4       **under the policy for one or more preexisting health conditions.**

5               **(2) Annual limitations on cost sharing.**

6               **(A)(i) The annual limitation on cost sharing for self-only coverage**  
7       **for any year shall be the same as the dollar limit established by the federal**  
8       **government for self-only coverage for that year in accordance with 45 C.F.R.**  
9       **§ 156.130.**

10              **(ii) The annual limitation on cost sharing for other than self-only**  
11       **coverage for any year shall be twice the dollar limit for self-only coverage**  
12       **described in subdivision (i) of this subdivision (A).**

13              **(B)(i) In the event that the federal government does not establish an**  
14       **annual limitation on cost sharing for any plan year, the annual limitation on**  
15       **cost sharing for self-only coverage for that year shall be the dollar limit for**  
16       **self-only coverage in the preceding calendar year, increased by any percentage**  
17       **by which the average per capita premium for health insurance coverage in**  
18       **Vermont for the preceding calendar year exceeds the average per capita**  
19       **premium for the year before that.**

20              **(ii) The annual limitation on cost sharing for other than self-only**  
21       **coverage for any year in which the federal government does not establish an**

1 annual limitation on cost sharing shall be twice the dollar limit for self-only  
2 coverage described in subdivision (i) of this subdivision (B).

3 (3) Ban on annual and lifetime limits. A group insurance policy shall  
4 not establish any annual or lifetime limit on the dollar amount of essential  
5 health benefits, as defined in Section 1302(b) of the Patient Protection and  
6 Affordable Care Act of 2010, Pub. L. No. 111-148, as amended by the Health  
7 Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and  
8 applicable regulations and federal guidance, for any individual insured under  
9 the policy, regardless of whether the services are provided in-network or out-  
10 of-network.

11 (4) No cost sharing for preventive services.

12 (A) A group insurance policy shall not impose any co-payment,  
13 coinsurance, or deductible requirements for:

14 (i) preventive services that have an “A” or “B” rating in the  
15 current recommendations of the U.S. Preventive Services Task Force;

16 (ii) immunizations for routine use in children, adolescents, and  
17 adults that have in effect a recommendation from the Advisory Committee on  
18 Immunization Practices of the Centers for Disease Control and Prevention with  
19 respect to the individual involved;

20 (iii) with respect to infants, children, and adolescents, evidence-  
21 informed preventive care and screenings as set forth in comprehensive



1 guidelines supported by the federal Health Resources and Services

2 Administration; and

3 (iv) with respect to women, to the extent not included in  
4 subdivision (i) of this subdivision (4)(A), evidence-informed preventive care  
5 and screenings set forth in binding comprehensive health plan coverage  
6 guidelines supported by the federal Health Resources and Services  
7 Administration.

8 (B) Subdivision (A) of this subdivision (4) shall apply to a high-  
9 deductible health plan only to the extent that it would not disqualify the plan  
10 from eligibility for a health savings account pursuant to 26 U.S.C. § 223.

11 (5) Definition of “group insurance policy.” As used in this subsection,  
12 “group insurance policy” has the same meaning as “group health plan” and  
13 shall be subject to the same excepted benefits, in each case, as set forth in  
14 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

15 § 4043. ASSOCIATION HEALTH PLANS

16 (a)(1) As used in this section, “association health plan” means a policy  
17 issued to an association; to a trust; or to one or more trustees of a fund  
18 established, created, or maintained for the benefit of the members of one or  
19 more associations or a contract or plan issued by an association or trust or by a  
20 multiple employer welfare arrangement as defined in the Employee Retirement  
21 Income Security Act of 1974, 29 U.S.C. § 1001 et seq.

1           (2) No association health plan shall be issued, offered, or renewed in  
2           this State to any person other than an association that was formed or could  
3           have been formed under the Employee Retirement Income Security Act of  
4           1974, 29 U.S.C. § 1001 et. seq., and accompanying U.S. Department of Labor  
5           regulations and guidance, in each case, as in effect as of January 19, 2017.

6           (b) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25  
7           regulating association health plans in order to protect Vermont consumers and  
8           promote the stability of Vermont's health insurance markets, to the extent  
9           permitted under federal law, including rules regarding licensure, solvency and  
10          reserve requirements, and rating requirements.

11          (c) The provisions of section 3661 of this title shall apply to association  
12          health plans.

13                           Subchapter 4. Continuation and Conversion of

14                                   Group Health Insurance Policies

15          § 4047a. CONTINUATION OF GROUP

16          (a) All group major medical insurance and dental insurance policies shall  
17          provide that any person whose insurance under the group policy would  
18          terminate because of the occurrence of a qualifying event as defined in  
19          subsection (b) of this section shall be entitled to continue the person's health  
20          insurance under that group policy.

1        (b) For purposes of this subchapter, “qualifying event” means:

2            (1) loss of employment, including a reduction in hours that results in  
3        ineligibility for employer-sponsored coverage;

4            (2) divorce, dissolution, or legal separation of the covered employee  
5        from the employee’s spouse or civil union partner;

6            (3) a dependent child ceasing to qualify as a dependent child under the  
7        generally applicable requirements of the policy; or

8            (4) death of the covered employee or member.

9        (c) The provisions of this section shall not apply if one or more of the  
10       following conditions applies:

11           (1) The deceased person or employee was not insured under the group  
12       policy on the date of the qualifying event.

13           (2) The person is covered by Medicare.

14           (3) The person is covered by any other group insured or uninsured  
15       arrangement that provides dental coverage or hospital and medical coverage  
16       for individuals in a group and under which the person was not covered  
17       immediately prior to the qualifying event, and no preexisting condition  
18       exclusion applies; provided, however, that the person shall remain eligible for  
19       continuation coverages that are not available under the insured or uninsured  
20       arrangement.

1           (4) The person has a loss of employment due to misconduct as defined  
2           in 21 V.S.A. § 1344.

3           (d) The continuation required by this section only applies to major medical  
4           insurance and dental insurance benefits.

5           (e) Notice of the continuation privilege shall be included in each certificate  
6           of coverage and shall be provided by the employer to the employee within 30  
7           days following the occurrence of any qualifying event.

8           § 4047b. CONTINUATION; NOTICE; TERMS

9           (a) A person electing continuation shall notify the health insurer, or the  
10           policyholder, or the contractor, or agent for the group if the policyholder did  
11           not contract for the policy directly with the health insurer, of such election in  
12           writing within 60 days after receiving notice following the occurrence of a  
13           qualifying event pursuant to subsection 4047a(e) of this title. Notice of  
14           election to continue under the group policy shall be accompanied by the initial  
15           contribution, which shall include payment for the period from the qualifying  
16           event through the end of the month in which the election is made.

17           (b) Contributions shall be due on a monthly basis in advance to the health  
18           insurer or the health insurer's agent, and shall not be more than 102 percent of  
19           the group rate for the insurance being continued under the group policy on the  
20           due date of each payment.

1     § 4047c. TERMINATION OF COVERAGE

2             Continuation of insurance under the group policy shall terminate upon the  
3     occurrence of any of the following:

4             (1) The date 18 months after the date that insurance under the policy  
5     would have terminated due to a qualifying event, as defined in subsection  
6     4047a(b) of this title.

7             (2) The person fails to make timely payment of the required  
8     contribution.

9             (3) The person is covered by Medicare.

10            (4) The person is covered by any other group insured or uninsured  
11     arrangement that provides dental coverage or hospital and medical coverage  
12     for individuals in a group, under which the person was not covered  
13     immediately prior to the occurrence of a qualifying event, as defined in  
14     subsection 4047a(b) of this title, and no preexisting condition exclusion  
15     applies; provided, however, that the person shall remain eligible for  
16     continuation coverages that are not available under the insured or uninsured  
17     arrangement.

18            (5) The date on which the group policy is terminated or, in the case of  
19     an employee, the date on which the decedent's or terminated employee's  
20     employer terminates participation under the group policy. If such coverage is  
21     replaced by similar coverage under another group policy:

1           (A) the person shall have the right to become covered under that  
2           replacement policy for the balance of the period that the person would have  
3           remained covered under the prior group policy;

4           (B) the minimum level of benefits to be provided by the replacement  
5           policy shall be the applicable level of benefits of the prior group policy  
6           reduced by any benefits payable under that prior group policy; and

7           (C) the prior group policy shall continue to provide benefits to the  
8           extent of its accrued liabilities and extensions of benefits as if the replacement  
9           has not occurred.

10           Subchapter 5. Group Health Insurance Termination and Replacement

11           § 4048a. DEFINITIONS; POLICIES AND CONTRACTS COVERED

12           (a) As used in this subchapter, “group health insurance policy or subscriber  
13           contract” means a policy or contract that meets the following conditions:

14           (1) coverage is provided through insurance policies or subscriber  
15           contracts to classes of employees or members of an organization or group;

16           (2) the coverage is not available to the general public and can be  
17           obtained and maintained only because of the covered individual’s employment  
18           or membership in an organization or group;

19           (3) there are arrangements for bulk payment of premiums or  
20           subscription charges to the health insurer; and

1           (4) there is sponsorship of the plan by the employer, organization, or  
2           group.

3           (b) A group health insurance policy or subscriber contract shall not be  
4           issued or provided by a health insurer unless the policy or contract complies  
5           with the provisions of this subchapter and the rules adopted pursuant to this  
6           subchapter.

7           § 4048b. TERMINATION FOR NONPAYMENT OF PREMIUM OR  
8           SUBSCRIPTION CHARGES

9           (a) If a group health insurance policy or subscriber contract provides for  
10           automatic termination of the policy or contract after a premium or subscription  
11           charge has remained unpaid through the grace period allowed for such  
12           payment, the health insurer shall be liable for valid claims for covered losses  
13           incurred prior to the end of the grace period.

14           (b) If the actions of the health insurer after the end of the grace period  
15           indicate that it considers the policy or contract to be continuing in force beyond  
16           the end of the grace period, including actions such as continuing to recognize  
17           claims subsequently incurred, the health insurer shall be liable for valid claims  
18           for losses incurred prior to the effective date of written notice of termination to  
19           the policyholder or other entity responsible for making payments or submitting  
20           subscription charges to the health insurer.

1       (c) The health insurer shall notify a policyholder or other responsible entity  
2       of any premium payment due on a policy at least 21 days before the due date.  
3       The effective date of termination of a policy or contract shall not be prior to  
4       midnight at the end of the 14th day following mailing of notice of termination.

5       § 4048c. NOTICE OF TERMINATION

6       (a) A notice of termination of a health insurer's group health insurance  
7       policy or subscriber contract shall:

8           (1) request the group policyholder or other entity involved to notify  
9           employees or members covered under the policy or subscriber contract of the  
10          date of termination of the policy or contract and to advise the employees or  
11          members that, unless otherwise provided in the policy or contract, the health  
12          insurer shall not be liable for claims for losses incurred after such date; and

13          (2) advise, in any instance in which the plan involves employee  
14          contributions, that if the policyholder or other entity continues to collect  
15          contributions for the coverage beyond the date of termination, the policyholder  
16          or other entity may be held solely liable for the benefits with respect to which  
17          the contributions have been collected.

18       (b) The health insurer giving notice of termination shall prepare and furnish  
19       to the policyholder or other entity at the time of notice a supply of a notice  
20       form to be distributed to covered employees or members. The form shall state  
21       the fact of termination and the effective date of termination. The form shall



1 contain a statement directing employees or members to refer to their  
2 certificates or contracts in order to determine their rights.

3 § 4048d. EXTENSION OF BENEFITS

4 (a) Each group health insurance policy or subscriber contract shall provide  
5 a reasonable extension of benefits in the event that the employer or member is  
6 in a condition of total disability on the date of termination of the group policy  
7 or contract in accordance with the provisions of this section.

8 (b) A policy or contract providing benefits for loss of time from work or  
9 specific indemnity during hospital confinement shall provide that termination  
10 of the policy or contract during a loss of time or confinement shall have no  
11 effect on benefits payable for the loss of time or confinement.

12 (c) A policy or contract providing hospital or medical expense coverage  
13 benefits shall provide an extension of benefits of at least 12 months under  
14 major medical insurance coverage and at least 90 days under other types of  
15 hospital or medical expense coverage.

16 (d) The provisions of a policy or contract relating to extension of benefits  
17 or accrued liability shall be described in the policy or contract as well as in  
18 group insurance certificates. The benefits payable during a period of extension  
19 or accrued liability may be subject to the policy's or contract's regular benefit  
20 limits.

1       (e) Nothing in this section shall be construed to require an extension of  
2       dental benefits.

3       § 4048e. REPLACEMENT COVERAGE

4       (a) General. When the group health insurance policy or subscriber contract  
5       of a health insurer replaces a policy or contract providing similar benefits of  
6       another health insurer, the liability of both health insurers shall be as provided  
7       in this section and rules adopted pursuant to this section.

8       (b) Liability of prior health insurer. A prior health insurer remains liable  
9       after termination of its policy or contract only to the extent of its accrued  
10       liabilities and extensions of benefits.

11       (c) Liability of succeeding health insurer.

12       (1) A succeeding health insurer shall offer a group health insurance  
13       policy or subscriber contract to replace a prior health insurer's policy or  
14       contract in accordance with the provisions of this subsection.

15       (2) A succeeding health insurer shall offer a policy or contract to cover  
16       all persons who:

17       (A) are covered or are a member of a class eligible for coverage  
18       under the prior health insurer's policy or contract on the date of termination of  
19       the prior health insurer's policy or contract; or

1           (B) are a member of a class eligible for coverage under the  
2           succeeding health insurer's policy or contract on the date of termination of the  
3           prior health insurer's policy or contract.

4           (3) The succeeding health insurer is not liable under this subsection for  
5           benefits required to be paid by the prior health insurer.

6           (4) When replacing a prior health insurer's plan that is not subject to  
7           section 4048d of this title, the succeeding health insurer shall, in addition to the  
8           coverage required to be offered under subdivision (2) of this subsection, offer a  
9           policy or contract that provides a level of benefit equal to the lesser of:

10           (A) the extension of benefits that would have been required if the  
11           prior health insurer's policy or contract was subject to section 4048d of this  
12           title; or

13           (B) the extension of benefits required for the succeeding health  
14           insurer's policy or contract, except that any such benefits may be reduced by  
15           benefits actually payable under the prior health insurer's plan.

16           (5) The preexisting condition limitation of a succeeding health insurer's  
17           policy or contract shall provide a level of benefits equal to the lesser of:

18           (A) the benefits of the succeeding health insurer's policy or contract  
19           determined without application of the preexisting conditions limitation; or

20           (B) the benefits of the prior health insurer's policy or contract.

1           (6) The succeeding health insurer, in applying a deductible or waiting-  
2           period provision in its policy or contract, shall give credit for the satisfaction of  
3           the same or similar provisions under the prior health insurer's policy or  
4           contract.

5           (7) At the succeeding health insurer's request, the prior health insurer  
6           shall furnish all information needed to determine the benefits available under  
7           the prior health insurer's policy or contract.

8           (d) Rules. The Commissioner shall adopt rules necessary to carry out the  
9           purposes of this section.

10                   Subchapter 6. Other Forms of Health Coverage

11           § 4051. MEDICARE SUPPLEMENT INSURANCE POLICIES

12           (a) Community rating.

13           (1) A health insurer shall use a community rating method acceptable to  
14           the Commissioner for determining premiums for Medicare supplement  
15           insurance policies.

16           (2) The Commissioner shall adopt rules for standards and procedure for  
17           permitting health insurers that issue Medicare supplement insurance policies to  
18           use one or more risk classifications in their community rating method. The  
19           premium charged shall not deviate from the community rate and the rules shall  
20           not permit medical underwriting and screening, except that a health insurer  
21           may set different community rates for persons eligible for Medicare by reason

1 of age and persons eligible for Medicare by reason of disability.

2 (b) Premium increases.

3 (1) Within five days after receiving a request for approval of any  
4 composite average rate increase in excess of three percent, or any other  
5 coverage changes that the Commissioner determines will have a comparable  
6 impact on cost or availability of coverage for a Medicare supplement insurance  
7 policy issued by any health insurer with 5,000 or more total lives in the  
8 Vermont Medicare supplement insurance market, the Commissioner shall  
9 notify the Department of Disabilities, Aging, and Independent Living of the  
10 proposed premium increase. A composite average rate is the enrollment-  
11 weighted average rate increase of all plans offered by a health insurer.

12 (2) Within five days after receiving notification pursuant to subdivision  
13 (1) of this subsection, the Department of Disabilities, Aging, and Independent  
14 Living shall inform the members of the Advisory Board established pursuant to  
15 33 V.S.A. § 505 of the proposed premium increase.

16 (3)(A) The Commissioner shall not approve any request to increase  
17 Medicare supplement insurance premium rates unless the amount of the rate  
18 increase complies with the statutory standards for approval under sections  
19 4026, 4513, 4584, and 5104 of this title. Any approved rate increase shall not  
20 be based on an unreasonable change in loss ratio from the previous year, unless  
21 the Commissioner makes written findings that such change is necessary to

1 prevent a substantial adverse impact on the financial condition of the health  
2 insurer. In acting on such rate increase requests, the Commissioner may deny  
3 the request, approve the rate increase as requested, or approve a rate increase in  
4 an amount different from the increase requested. A decision by the  
5 Commissioner other than an approval of the rate requested may be appealed by  
6 the health insurer, provided that the burden of proof shall be on the health  
7 insurer to show that the approved rate does not meet the statutory standards  
8 established under this subsection.

9 (B) Before acting on the rate increase requested, the Commissioner  
10 may make such examination or investigation as the Commissioner deems  
11 necessary, including where applicable the review process set forth in  
12 subdivision (C) of this subdivision (3).

13 (C)(i) In reviewing any Medicare supplement insurance rate increase  
14 for which an independent analysis has been performed pursuant to 33 V.S.A.  
15 § 6706 and in which the health insurer's requested composite average increase,  
16 the independent expert's recommended composite average rate increase, or the  
17 Department actuary's recommended composite average rate increase differ by  
18 two percentage points or more, the Commissioner shall hold a public hearing at  
19 which the health insurer, the Department's actuary, the independent expert, any  
20 intervenor, and the public will have the opportunity to present written and oral

1 testimony and will be available to answer questions of the Commissioner and  
2 those present.

3 (ii) The hearing shall be noticed and held at a time and place so as  
4 to facilitate public participation, and shall be recorded and become part of the  
5 record before the Commissioner. At the Commissioner's discretion, the  
6 hearing may be conducted remotely.

7 (iii) If the carrier's requested composite average increase, the  
8 independent expert's recommended composite average increase, or the  
9 Department actuary's recommended composite average increase differs by less  
10 than two percentage points, the Department and the parties shall confer by  
11 conference call, or by any other available media, to review the rate requests  
12 and recommendations. However, a public hearing may be held at the  
13 Commissioner's discretion for good cause shown.

14 (D)(i) In any review held in accordance with this subdivision (3), the  
15 Commissioner shall permit intervention by any person whom the  
16 Commissioner determines will materially advance the interests of the covered  
17 individuals. The intervenor shall have access to and may use the information  
18 of the independent expert appointed under 33 V.S.A. § 6706.

19 (ii) The reasonable and necessary cost of intervention as  
20 determined by the Commissioner shall be paid by the affected policyholders or  
21 certificate holders. The maximum payment shall be \$2,500.00 except when

1 waived by the Commissioner for good cause shown. The \$2,500.00 maximum  
2 amount may be adjusted to reflect, at the Commissioner's discretion,  
3 appropriate inflation factors.

4 (E) Nonproprietary, relevant information in any Medicare  
5 supplement insurance rate filing, including any analysis by the Department's  
6 actuary and the independent expert, shall be made available to the public upon  
7 request.

8 (c) Disability.

9 (1) A health insurer that issues Medicare supplement insurance policies  
10 or certificates to a person eligible for Medicare by reason of age shall make  
11 available, to persons eligible for Medicare by reason of disability, the same  
12 policies or certificates that are offered and sold to persons eligible for  
13 Medicare by reason of age. The initial enrollment period for any such policies  
14 or certificates shall be at least six months following the date the individual  
15 becomes eligible for Medicare by reason of disability. Any additional  
16 enrollment periods as required by law and offered to individuals eligible by  
17 reason of age shall be offered to individuals eligible by reason of disability.

18 (2) This subsection does not apply to persons eligible for Medicare by  
19 reason of end stage renal disease.

20 (d) Outreach and education. The Department of Financial Regulation shall  
21 collaborate with health insurers, advocates for older Vermonters and for other



1 Medicare-eligible adults, and the Office of the Health Care Advocate to  
2 educate the public about the benefits and limitations of Medicare supplement  
3 insurance policies and Medicare Advantage plans, including information to  
4 help the public understand issues relating to coverage, costs, and provider  
5 networks.

6 § 4052. BLANKET HEALTH INSURANCE

7 (a) Blanket health insurance is a form of health insurance that, to the extent  
8 permitted under federal law, is supplemental to major medical health insurance  
9 or provides coverage other than the payment of all or a portion of the cost of  
10 health care services or products, and that covers special groups of persons as  
11 follows:

12 (1) under a policy or contract issued to any common carrier, which shall  
13 be deemed the policyholder, covering a group defined as all persons who may  
14 become passengers on such common carrier;

15 (2) under a policy or contract issued to an employer, who shall be  
16 deemed the policyholder, covering any group of employees defined by  
17 reference to exceptional hazards incident to such employment;

18 (3) under a policy or contract issued to a public school, independent  
19 school, or approved education program, as those terms are defined in  
20 16 V.S.A. § 11; to a postsecondary school, as defined in 16 V.S.A.  
21 § 176(b)(1); or to a prequalified private prekindergarten provider, as defined in

1 16 V.S.A. § 829(a)(3), or to the head or principal of the school, program, or  
2 provider, who or which shall be deemed the policyholder, covering students or  
3 teachers, or both;

4 (4) under a policy or contract issued in the name of any volunteer fire  
5 department, emergency medical services provider, or other such volunteer  
6 group, which shall be deemed the policyholder, covering all of the members of  
7 the department or group in connection with their department or group  
8 activities; or

9 (5) under a policy or contract issued to any other substantially similar  
10 group that, in the discretion of the Commissioner and after the prior approval  
11 by the Commissioner of the group, may be subject to the issuance of a blanket  
12 health policy or contract.

13 (b)(1) No blanket health insurance policy shall contain any provision  
14 relating to notice of claim, proofs of loss, time of payment of claims, or time  
15 within which legal action must be brought upon the policy that, in the opinion  
16 of the Commissioner, is less favorable to the persons insured than would be  
17 permitted by the provisions set forth in section 4029 of this title.

18 (2) An individual application shall not be required from a person  
19 covered under a blanket health policy or contract, nor shall it be necessary for  
20 the insurer to furnish each person a certificate.

1           (3) All benefits under any blanket health policy shall, unless for hospital  
2           and physician service or surgical benefits, be payable to the person insured, or  
3           to the person's designated beneficiary or beneficiaries, or to the person's  
4           estate, except that if the person insured is a minor, the benefits may be made  
5           payable to the minor's parent, guardian, or other person actually supporting the  
6           minor.

7           (4) Nothing in this section shall be deemed to affect the legal liability of  
8           policyholders for the death of, or injury to, any members of the group.

9           (c) No blanket health insurance policy that provides coverage for the  
10           payment of all or a portion of the cost of health care services or products shall  
11           contain any provision that does not comply with a requirement of this title, or a  
12           rule adopted pursuant to this title applicable to health insurance, other than  
13           those requirements applicable to nongroup health insurance or small group  
14           health insurance. The Commissioner may waive the application to a blanket  
15           insurance policy of one or more of the health insurance requirements of this  
16           title, or a rule adopted pursuant to this title, if the requirement is not relevant to  
17           the types of risks and duration of risks insured against in the blanket insurance  
18           policy.

19           § 4053. SHORT-TERM, LIMITED-DURATION HEALTH INSURANCE

20           (a) As used in this section, "short-term, limited-duration health insurance"  
21           means health insurance that provides medical, hospital, or major medical

1 expense benefits coverage pursuant to a policy or contract with a health insurer  
2 and that has an expiration date specified in the policy or contract that is three  
3 months or less after the original effective date of the policy or contract.

4 (b) No person shall provide short-term, limited-duration health insurance  
5 coverage without a certificate of authority from the Commissioner to offer  
6 health insurance in this State unless the person is exempted by subdivision  
7 3368(a)(4) of this title.

8 (c) A short-term, limited-duration health insurance policy or contract shall  
9 be nonrenewable, and a health insurer shall not issue a short-term, limited-  
10 duration health insurance policy or contract to any person if the issuance would  
11 result in the person being covered by short-term, limited-duration health  
12 insurance coverage for more than three months in any 12-month period.

13 (d) A policy or contract for short-term, limited-duration health insurance  
14 coverage shall display prominently in the policy or contract and in any  
15 application materials provided in connection with enrollment in that coverage,  
16 in at least 14-point type, certain disclosures regarding the scope of short-term,  
17 limited-duration health insurance coverage, including the types of benefits and  
18 consumer protections that are and are not included. The Commissioner shall  
19 determine the specific disclosure language that shall be used in all short-term,  
20 limited-duration health insurance policies, contracts, and application materials  
21 and shall provide the language to the health insurers offering that coverage.

- 1       (e) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25:
- 2           (1) establishing the minimum financial, marketing, service, and other
- 3       requirements for registration of a health insurer to provide short-term, limited-
- 4       duration health insurance coverage to individuals in this State;
- 5           (2) requiring a health insurer seeking to provide short-term, limited-
- 6       duration health insurance coverage to individuals in this State to file its rates
- 7       and forms with the Commissioner for the Commissioner's approval;
- 8           (3) requiring a health insurer seeking to provide short-term, limited-
- 9       duration health insurance coverage to individuals in this State to file its
- 10       advertising materials with the Commissioner for the Commissioner's approval;
- 11       and
- 12           (4) establishing such other requirements as the Commissioner deems
- 13       necessary to protect Vermont consumers and promote the stability of
- 14       Vermont's health insurance markets.
- 15       (f) The provisions of section 4063 of this title, and any rules adopted under
- 16       that section, shall apply to short-term, limited-duration health insurance
- 17       coverage.

18                   Subchapter 7. Child and Dependent Coverage

1     § 4057. COVERAGE OF CHILDREN

2         (a) Definition. "Health insurance plan" has the same meaning as in section  
3         4011 of this chapter and shall be subject to the same excepted benefits, in each  
4         case, as set forth in 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

5         (b) Newborn coverage.

6             (1) A health insurance plan that provides dependent coverage of  
7         children shall also provide that health insurance benefits applicable to children  
8         are payable with respect to a newly born child of the insured or subscriber  
9         from the moment of birth. Coverage for a newly born child shall include  
10        coverage of injury, sickness, and necessary care and treatment of medically  
11        diagnosed congenital defect or birth abnormality.

12            (2) Coverage for a newly born child shall be provided without notice or  
13        additional premium for not less than 60 days after the date of birth. If payment  
14        of a specific premium or subscription fee is required in order to have the  
15        coverage continue beyond such 60-day period, the policy may require that  
16        notification of the birth of the newly born child and payment of the required  
17        premium or fees be furnished to the health insurer within a period of not less  
18        than 60 days after the date of birth.

19         (c) Adopted child coverage.

20            (1) As used in this section:

1           (A) “Child” means, in connection with any adoption or placement for  
2           adoption of the child, an individual who has not attained 18 years of age as of  
3           the date of the adoption or placement for adoption.

4           (B) “Placement for adoption” means the assumption and retention by  
5           a person of a legal obligation for total or partial support of a child in  
6           anticipation of the adoption of the child. The child’s placement with a person  
7           terminates upon the termination of such legal obligations.

8           (2) In any case in which a health insurance plan provides coverage for  
9           dependent children of covered individuals, the plan shall provide benefits to  
10          dependent children placed with covered individuals for adoption under the  
11          same terms and conditions as apply to the natural, dependent children of the  
12          covered individuals, irrespective of whether the adoption has become final.

13          (3) A health insurance plan shall not restrict coverage under the plan of  
14          any dependent child adopted by a covered individual, or placed with a covered  
15          individual for adoption, solely on the basis of a preexisting condition of the  
16          child at the time that the child would otherwise become eligible for coverage  
17          under the plan, if the adoption or placement for adoption occurs while the  
18          covered individual is eligible for coverage under the plan.

19          (d) Coverage required until 26 years of age. A health insurance plan that  
20          provides dependent coverage of children shall continue to make that coverage  
21          available for an adult child until the child attains 26 years of age, provided that

1 this subsection shall not apply to a plan providing coverage for a specified  
2 disease or other limited benefit coverage, and further provided that nothing in  
3 this subsection shall require a plan to make coverage available for the child of  
4 a child receiving dependent coverage.

5 (e) Coverage of adult child with a disability.

6 (1) A health insurance plan that provides for terminating the coverage of  
7 a dependent child upon attainment of the limiting age for dependent children  
8 specified in the policy shall not limit or restrict coverage with respect to an  
9 unmarried child who meets all of the following criteria:

10 (A) is incapable of self-sustaining employment by reason of a mental  
11 or physical disability that has been found to be a disability that qualifies or  
12 would qualify the child for benefits using the definitions, standards, and  
13 methodology in 20 C.F.R. Part 404, Subpart P;

14 (B) became so incapable prior to attainment of the limiting age; and

15 (C) is chiefly dependent upon the employee, member, subscriber, or  
16 policyholder for support and maintenance.

17 (2) Coverage under subdivision (1) of this subsection shall not be denied  
18 any person based upon the existence of such a condition; provided, however,  
19 that a health insurance plan may require reasonable periodic proof of a  
20 continuing condition not more frequently than once every year.



1       (f) Coverage of leave of absence from college. A health insurance plan that  
2       covers dependent children who are full-time college students beyond 18 years  
3       of age shall include coverage for a dependent's medically necessary leave of  
4       absence from school for a period not to exceed 24 months or the date on which  
5       coverage would otherwise end pursuant to the terms and conditions of the  
6       policy or coverage, whichever comes first, except that coverage may continue  
7       under subsection (b) of this section as appropriate. To establish entitlement to  
8       coverage under this subsection, documentation and certification by the  
9       student's treating health care professional of the medical necessity of a leave of  
10       absence shall be submitted to the health insurer or, for self-insured plans, the  
11       health plan administrator. The health insurance plan may require reasonable  
12       periodic proof from the student's treating health care professional that the  
13       leave of absence continues to be medically necessary.

14       (g) Parental rights. When a child has health coverage through the health  
15       insurer of a parent, the health insurer shall:

16               (1) provide such information to either parent as may be necessary for the  
17               child to obtain benefits through that coverage;

18               (2) permit either parent, a provider with parental authorization, the State  
19               Medicaid agency as assignee, or any State agency administering health benefits  
20               or a health benefit plan for which Medicaid is a source of funding to submit

1 claims for covered services, and to appeal the denial of any benefit, without the  
2 approval of the other parent; and

3 (3) make payments on claims submitted in accordance with subdivision  
4 (2) of this subsection directly to the parent who paid the provider, the provider  
5 as assignee, the State Medicaid agency, or any State agency administering  
6 health benefits or a health benefit plan for which Medicaid is a source of  
7 funding.

8 (h) Child vaccine coverage. No health insurer shall reduce its coverage for  
9 pediatric vaccines below the coverage provided as of May 1, 1993.

10 § 4058. MEDICAL SUPPORT ORDERS

11 (a) As used in this section:

12 (1) “Dependent coverage” means family coverage, or coverage for one  
13 or more persons as long as the coverage for one or more persons is greater than  
14 or equal to the coverage available under family coverage.

15 (2) “Health insurance plan” has the same meaning as in section 4011 of  
16 this chapter and shall be subject to the same excepted benefits, in each case, as  
17 set forth in 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

18 (b) A health insurer shall not deny enrollment of a child under the health  
19 insurance plan of the child’s parent who is ordered to provide medical support  
20 on the grounds that:

1           (1) the child was born to unmarried parents;

2           (2) the child is not claimed as a dependent on the parent's federal tax  
3           return; or

4           (3) the child does not reside with the parent or in the health insurer's  
5           service area.

6           (c) When a parent is required by a court or administrative order to provide  
7           health coverage for a child, and the parent is eligible for dependent health  
8           coverage, the health insurer shall be required:

9           (1) To enroll, under the dependent coverage, a child who is otherwise  
10          eligible for the coverage without regard to any enrollment season restrictions  
11          or any seasonal restrictions on switching from one plan to another, upon  
12          application of either parent, the employer, the State agency administering the  
13          Medicaid program, any State agency administering health benefits or a health  
14          insurance plan for which Medicaid is a source of funding, or the child support  
15          enforcement program.

16          (2) Not to disenroll or eliminate coverage of the child unless the health  
17          insurer is provided satisfactory written evidence that:

18               (A) the court or administrative order is no longer in effect;

19               (B) the child is or will be enrolled in comparable health coverage  
20          through another health insurer that will take effect not later than the effective  
21          date of disenrollment; or

1           (C) the employer has eliminated dependent health coverage for all of  
2           its employees if allowed by law.

3           (3) To provide enrollment under subdivision (1) of this subsection with  
4           coverage effective three days after the mailing of notice of the court or  
5           administrative order to the health insurer or upon actual receipt of notice by the  
6           health insurer, whichever is sooner. The health insurer shall have 10 days from  
7           notice to process the enrollment and shall be entitled to premiums from the  
8           effective date of enrollment.

9           (d) A health insurer shall not impose requirements on a State agency that  
10          has been assigned the rights of an individual eligible for medical assistance  
11          under Medicaid and covered for health benefits from the health insurer that are  
12          different from requirements applicable to an agent or assignee of any other  
13          individual so covered.

14          (e) Any health insurer that fails to enroll a child after notice under  
15          15 V.S.A. § 663(d) or 33 V.S.A. § 4110(a)(4) shall be directly liable for any  
16          medical expenses of the child that would have been covered under the health  
17          insurance plan had the health insurer enrolled the child upon receiving notice.

18          (f) Notice by first class mail, postage prepaid, or by any other method  
19          showing actual receipt, shall be presumptive evidence of its receipt by the  
20          health insurer to whom it is addressed. Any period of time that is determined  
21          under this section by the giving of notice shall commence to run from the date

1 of mailing, if the notice is mailed, or the date of actual receipt if another  
2 method of transmitting the notice is used.

3 (g) A health insurer may cancel any health insurance plan that is the subject  
4 of a medical support order for nonpayment of premium only if the health  
5 insurer mails or delivers notice of cancellation to both parents and all other  
6 persons or agencies identified in the medical support order. Any health insurer  
7 cancelling a health insurance plan for nonpayment of premium shall reinstate  
8 the health insurance plan effective from the date of cancellation if the  
9 nonpayment of premium is cured within 45 days of the cancellation.

10 § 4059. COVERAGE FOR CIVIL UNIONS

11 (a) As used in this section:

12 (1) “Dependent coverage” means family coverage or coverage for one  
13 or more persons.

14 (2) “Party to a civil union” has the same meaning as in 15 V.S.A.  
15 § 1201.

16 (b) Notwithstanding any provision of law to the contrary, health insurers  
17 shall provide dependent coverage to parties to a civil union that is equivalent to  
18 that provided to covered individuals who are married. A health insurance  
19 policy that provides coverage for a spouse or family member of the covered  
20 individual shall also provide the equivalent coverage for a party to a civil  
21 union.

1     § 4060. COVERAGE FOR EMPLOYEES OF AN EMPLOYER

2             DOMICILED OUTSIDE VERMONT

3             (a) As used in this section:

4                 (1) “Marriage” has the same meaning as in 15 V.S.A. § 8.

5                 (2) “Party to a civil union” has the same meaning as in 15 V.S.A. §  
6             1201.

7             (b) To the extent permitted under federal law, health insurance coverage  
8             provided to Vermont residents who work for an employer domiciled outside  
9             Vermont shall not distinguish between parties to a civil union, married same-  
10            sex couples, and married opposite-sex couples.

11                     Subchapter 8. Internal and External Reviews

12     § 4063. INDEPENDENT EXTERNAL REVIEW OF HEALTH CARE

13             SERVICE DECISIONS

14             (a) As used in this section, “covered individual” includes a member of a  
15             health insurance plan not otherwise subject to the Department’s jurisdiction  
16             that has voluntarily agreed to use the external review process provided under  
17             this section.

18             (b) A covered individual who has exhausted all applicable internal review  
19             procedures provided by the health insurance plan shall have the right to an  
20             independent external review of a decision under a health insurance plan to  
21             deny, reduce, or terminate health care coverage or to deny payment for a health

1 care service. The independent review shall be available when requested in  
2 writing by the affected covered individual, provided the decision to be  
3 reviewed requires the plan to expend at least \$100.00 for the service and the  
4 decision by the plan is based on one of the following reasons:

5 (1) The health care service is a covered benefit that the health insurer  
6 has determined to be not medically necessary.

7 (2) A limitation is placed on the selection of a health care provider that  
8 is claimed by the covered individual to be inconsistent with limits imposed by  
9 the health insurance plan and any applicable laws and rules.

10 (3) The health care treatment has been determined to be experimental or  
11 investigational or is an off-label drug. A health insurance plan that denies use  
12 of a prescription drug for the treatment of cancer as not medically necessary or  
13 as an experimental or investigational use shall treat any internal appeal of such  
14 denial as an emergency or urgent appeal and shall decide the appeal within the  
15 time frames applicable to emergency and urgent internal appeals under rules  
16 adopted by the Commissioner.

17 (4) The health care service involves a medically based decision that a  
18 condition is preexisting.

19 (5) The decision involves an adverse determination related to surprise  
20 medical billing, as established under Section 2799A-1 or 2799A-2 of the  
21 Public Health Service Act, including with respect to whether an item or service

1 that is the subject of the adverse determination is an item or service to which  
2 Section 2799A-1 or 2799A-2 of the Public Health Service Act, or both,  
3 applies.

4 (c) The right to review under this section shall not be construed to change  
5 the terms of coverage under a health insurance plan.

6 (d) The Department shall adopt rules necessary to carry out the purposes of  
7 this section. The rules shall ensure that the independent external reviews have  
8 the following characteristics:

9 (1) The independent external reviews shall be conducted:

10 (A) by independent review organizations pursuant to a contract with  
11 the Department, and the reviewers shall include health care providers  
12 credentialed with respect to the health care service under review and shall have  
13 no conflict of interest relating to the performance of their duties under this  
14 section; and

15 (B) in accordance with standards of decision making based on  
16 objective clinical evidence, shall resolve all issues in a timely manner, and  
17 shall provide expedited resolution when the decision relates to emergency or  
18 urgent health care services.

19 (2) A covered individual shall:

20 (A) Be provided with adequate notice of the covered individual's  
21 review rights under this section.



1           (B) Have the right to use outside assistance during the review process  
2           and to submit evidence relating to the health care service.

3           (C) Pay an application fee of \$25.00 for each request for an  
4           independent external review of an appealable decision not to exceed a total of  
5           \$75.00 annually. The application fee may be waived or reduced based on a  
6           determination by the Commissioner that the financial circumstances of the  
7           covered individual warrant a waiver or reduction. The application fee shall be  
8           paid by the health insurer, not the covered individual, if the independent  
9           review organization reverses the health insurer's decision to deny payment for  
10          a health care service.

11          (D) Be protected from retaliation for exercising the covered  
12          individual's right to an independent external review under this section.

13          (3) Other costs of the independent review shall be paid by the health  
14          insurance plan.

15          (4) The independent review organization shall issue to both parties a  
16          written review decision that is evidence-based. The decision shall be binding  
17          on the health insurance plan.

18          (5) The confidentiality of any health care information acquired or  
19          provided to the independent review organization shall be maintained in  
20          compliance with any applicable State or federal laws.

1           (6) The records of, and internal materials prepared for, specific reviews  
2           by any independent review organization under this section shall be exempt  
3           from public inspection and copying under the Public Records Act.

4           (e) Decisions relating to the following health care services shall not be  
5           reviewed under this section but shall be reviewed by the review process  
6           provided by law:

7           (1) health care services provided by the Vermont Medicaid program or  
8           Medicaid benefits provided through a contracted health plan; and

9           (2) health care services provided to incarcerated individuals by the  
10          Department of Corrections.

11          § 4064. MENTAL HEALTH SERVICES REVIEW

12          (a) The purposes of this section are to:

13               (1) promote the delivery of quality mental health services in a cost-  
14               effective manner;

15               (2) foster the practice of mental health services review as a professional  
16               collaborative process, the primary objective of which is to enhance the  
17               effectiveness of clinical treatment;

18               (3) protect clients and patients, employers, and mental health providers  
19               by ensuring that review agents are qualified to perform service review  
20               activities and to make informed decisions on the appropriateness of mental  
21               health care; and

1           (4) ensure the confidentiality of clients' and patients' mental health  
2           records in the performance of service review activities in accordance with  
3           applicable State and federal laws.

4           (b) Definitions. As used in this section:

5           (1) "License" means a review agent's license granted by the  
6           Commissioner.

7           (2) "Mental health provider" means any individual, corporation, facility,  
8           or institution certified or licensed by this State to provide mental health  
9           services, including a physician, nurse with recognized psychiatric specialties,  
10           hospital or other health care facility, psychologist, clinical social worker,  
11           mental health counselor, alcohol or drug abuse counselor, or an employee or  
12           agent of such mental health provider acting in the course and scope of  
13           employment or an agency related to mental health services.

14           (3) "Mental health services" mean acts of diagnosis, treatment,  
15           evaluation, or advice or any other acts permissible under the health care laws  
16           of Vermont, whether performed in an outpatient or institutional setting, and  
17           include treatment for substance use disorder.

18           (4) "Review agent" means a person or entity performing service review  
19           activities within one year following the date of submission of a fully compliant  
20           application for licensure who is affiliated with, under contract with, or acting  
21           on behalf of a business entity in this State and who provides or administers

1 mental health benefits to members of health insurance plans subject to the  
2 Department's jurisdiction, including a health insurer.

3 (5) "Service review" means any system for reviewing the appropriate  
4 and efficient allocation of mental health services given or proposed to be given  
5 to a client or patient, or to a group of clients or patients, for the purpose of  
6 recommending or determining whether the services should be covered and  
7 includes activities of utilization review and managed care, but does not include  
8 professional peer review that does not affect reimbursement for or provision of  
9 services.

10 (c) Any person who approves or denies payment, or who recommends  
11 approval or denial of payment, for mental health services, or whose review  
12 results in approval or denial of payment for mental health services on a case-  
13 by-case basis, shall not review these services in this State unless the  
14 Commissioner has granted the person a review agent's license. The  
15 Commissioner shall adopt rules to implement the provisions of this section,  
16 including the procedures and standards for licensure. The rules shall  
17 differentiate between health maintenance organizations licensed to do business  
18 within this State and other forms of utilization review. The rules shall  
19 establish:

20 (1) A requirement that within 10 business days after receiving a request  
21 for them, the review agent shall make available at no cost to the clients,

1 patients, and providers affected by its service review activities the specific  
2 review criteria and standards, credentials of the reviewing professionals, and  
3 procedures and methods to be used in evaluating proposed or delivered mental  
4 health services.

5 (2) A time period within which any determination regarding the  
6 provision or reimbursement of mental health services shall be made.

7 (3) A requirement that any determination regarding mental health  
8 services rendered or to be rendered to a client or patient that may result in a  
9 denial of third-party reimbursement or a denial of precertification for that  
10 service shall include the evaluation, findings, and concurrence of a mental  
11 health professional whose training and expertise is at least comparable to that  
12 of the treating mental health provider.

13 (4) The type, qualifications, and number of personnel required to  
14 perform service review activities.

15 (5) A requirement that a determination by a review agent that care  
16 rendered or to be rendered is inappropriate shall not be made until the review  
17 agent has communicated with the patient's attending mental health provider  
18 concerning that care. The review shall be prospective or concurrent with the  
19 treatment.

1           (6) A requirement that any determination that care rendered or to be  
2           rendered is inappropriate shall include the written evaluation and findings of  
3           the review agent.

4           (7) A procedure for clients, patients, mental health providers, and  
5           hospitals to seek prompt reconsideration before an independent review  
6           organization pursuant to section 4063 of this title of an adverse decision by a  
7           review agent. The external reviewer engaged by the independent review  
8           organization shall have training and expertise at least comparable to that of the  
9           treating health care provider.

10           (8) Policies and procedures to ensure that all applicable State and federal  
11           laws to protect the confidentiality of individual mental health records are  
12           followed.

13           (9) Policies and procedures that ensure appropriate notification and  
14           concurrence of providers and their clients or patients before client or patient  
15           interviews are conducted by the review agent.

16           (10)(A) Prohibition of an agreement between the review agent and a  
17           business entity or third-party payor in which payment to the review agent  
18           includes an incentive or contingent fee arrangement based on the reduction of  
19           mental health services, reduction of length of stay, reduction of treatment, or  
20           treatment setting selected.

1           (B) Nothing in this subdivision (10) shall prohibit capitation  
2           arrangements for reimbursement for mental health services.

3           (C) A clinical decision made by the attending mental health provider  
4           regarding continued treatment shall not be construed as a denial of services  
5           subject to the provisions of this section.

6           (d) Reviewing agents shall be subject to the provisions of chapter 129 of  
7           this title governing unfair insurance trade practices.

8           (e) The Commissioner shall have the authority to examine, take  
9           administrative action against, and penalize review agents as provided in  
10           chapters 3, 101, and 129 of this title. A person who violates any provision of  
11           this section or who submits any false information in an application required by  
12           this section may be fined not more than \$5,000.00 for each violation.

13           (f) A review agent shall pay a license fee of \$200.00 for the year of  
14           registration and a renewal fee of \$200.00 for each year thereafter. In addition,  
15           a review agent shall pay any additional expenses incurred by the  
16           Commissioner to examine and investigate an application or an amendment to  
17           an application.

18           (g) The confidentiality of any health care information acquired by or  
19           provided to an independent review organization pursuant to section 4063 of  
20           this title shall be maintained in compliance with any applicable State or federal  
21           laws. Records of, and internal materials prepared for, specific reviews under

1 this section shall be exempt from public inspection and copying under the  
2 Public Records Act.

3 Subchapter 9. Required Covered Benefits

4 § 4067. APPLICATION OF SUBCHAPTER

5 (a) Unless otherwise specified and to the extent not inconsistent with  
6 federal law, the benefits required in this subchapter:

7 (1) apply only to major medical insurance plans;

8 (2) may be subject to deductibles, co-payment and coinsurance amounts,  
9 fee or benefit limits, practice parameters, and utilization review consistent with  
10 any applicable rules and guidance adopted by the Department of Financial  
11 Regulation; and

12 (3) do not apply to Vermont Medicaid.

13 (b) A health insurer may require benefits mandated in this subchapter to be  
14 provided by a licensed health care provider under contract with the health  
15 insurer; provided, however, that this provision shall not be construed to relieve  
16 a health insurance plan from complying with the applicable network adequacy  
17 requirements adopted by the Commissioner by rule.

18 § 4068. CHIROPRACTIC SERVICES

19 (a) A health insurance plan shall provide coverage for clinically necessary  
20 health care services provided by a chiropractic physician licensed in this State  
21 for treatment within the scope of practice described in 26 V.S.A. chapter 10,



1 but limiting adjunctive therapies to physiotherapy modalities and rehabilitative  
2 exercises. A health insurance plan does not have to provide coverage for the  
3 treatment of any visceral condition arising from problems or dysfunctions of  
4 the abdominal or thoracic organs.

5 (b) A health insurer may require that the chiropractic services be  
6 provided upon referral from a health care provider under contract with the  
7 health insurer.

8 (c) For silver- and bronze-level qualified health benefit plans and any  
9 reflective health benefit plans offered at the silver or bronze level pursuant to  
10 33 V.S.A. chapter 18, subchapter 1, health care services provided by a  
11 chiropractic physician may be subject to a co-payment requirement, provided  
12 that any required co-payment amount shall be between 125 and 150 percent of  
13 the amount of the co-payment applicable to care and services provided by a  
14 primary care provider under the plan.

15 (d) Nothing in this section shall be construed as impeding or preventing  
16 either the provision or coverage of health care services by licensed chiropractic  
17 physicians, within the lawful scope of chiropractic practice, in hospital  
18 facilities on a staff or employee basis.

19 § 4069. PROSTHETIC DEVICES

20 (a) As used in this section, “prosthetic device” means an artificial limb  
21 device to replace, in whole or in part, an arm or a leg.

1       **(b) A health insurance plan shall provide coverage for prosthetic devices**  
2       **that is at least equivalent to the coverage provided by the federal Medicare**  
3       **program. Coverage may be limited to the prosthetic device that is the most**  
4       **appropriate model that is medically necessary to meet the patient's medical**  
5       **needs. Any dispute between the covered individual and the carrier concerning**  
6       **coverage and the application of this section shall be subject to independent**  
7       **external review under section 4063 of this title.**

8       **(c) A health insurance plan may require prior authorization for prosthetic**  
9       **devices in the same manner and to the same extent as prior authorization is**  
10       **required for any other covered benefit.**

11       **(d) A health insurance plan shall provide coverage under this section for**  
12       **the medically necessary repair or replacement of a prosthetic device.**

13       **(e) The coverage for prosthetic devices shall not be subject to a deductible,**  
14       **co-payment, or coinsurance provision that is less favorable to a covered**  
15       **individual than the deductible, co-payment, or coinsurance provisions that**  
16       **apply generally to other nonprimary care items and services under the health**  
17       **insurance plan.**

18       **§ 4070. HEARING AID COVERAGE IN LARGE GROUP HEALTH**

19       **INSURANCE PLANS**

1       (a) As used in this section:

2           (1) “Hearing aid” means any small, wearable electronic instrument or  
3       device designed and intended for the ear for the purpose of aiding or  
4       compensating for impaired human hearing and any related parts, attachments,  
5       or accessories, including earmolds and associated remote microphones that  
6       pair with hearing aids to improve word comprehension in difficult listening  
7       situations in live or telecommunication settings. The term does not include  
8       large-audience assisted listening devices, such as those designed for  
9       auditoriums, or stand-alone assisted listening devices that can function without  
10      a hearing aid.

11          (2) “Hearing aid professional services” means the practice of fitting,  
12      selecting, dispensing, selling, or servicing hearing aids, or a combination,  
13      including:

14           (A) evaluation for a hearing aid;

15           (B) fitting of a hearing aid;

16           (C) programming of a hearing aid;

17           (D) hearing aid repairs;

18           (E) follow-up adjustments, servicing, and maintenance of a hearing  
19      aid;

20           (F) ear mold impressions; and

21           (G) auditory rehabilitation and training.

1           (3) “Hearing care professional” means an audiologist or hearing aid  
2           dispenser licensed under 26 V.S.A. chapter 67, a physician licensed under  
3           26 V.S.A. chapter 23 or 33, a physician assistant licensed under 26 V.S.A.  
4           chapter 31, or an advanced practice registered nurse licensed under 26 V.S.A.  
5           chapter 28, working within that professional’s scope of practice.

6           (4) “Large group health insurance plan” means a major medical  
7           insurance plan that meets the requirements of section 4041 of this title but that  
8           is not:

9           (A) a qualified health benefit plan or reflective health benefit plan  
10           offered in accordance with 33 V.S.A. chapter 18, subchapter 1; or

11           (B) a health benefit plan offered by an intermunicipal insurance  
12           association to one or more entities providing educational services pursuant to  
13           24 V.S.A. chapter 121, subchapter 6.

14           (b)(1) A large group health insurance plan shall cover the cost of a hearing  
15           aid for each ear and the associated hearing aid professional services when the  
16           hearing aid or aids are prescribed, fitted, and dispensed by a hearing care  
17           professional. The coverage shall include hearing aid batteries when prescribed  
18           by a hearing care professional.

19           (2) A large group health insurance plan may limit coverage to not more  
20           than one hearing aid per ear every three years, except that a plan shall cover  
21           the cost of one or more new hearing aids for a covered individual prior to the

1 expiration of the three-year period based on a hearing care professional's  
2 determination that a new hearing aid for one or both ears is medically  
3 necessary.

4 (c)(1) Subject to the limitations set forth in subdivision (b)(2) of this  
5 section, the coverage provided by a large group health insurance plan for  
6 hearing aids and associated services shall be limited only by medical necessity.

7 (2) A covered individual may select a hearing aid that exceeds the limits  
8 set forth in subdivision (1) of this subsection and pay the additional cost.

9 (d) The coverage required by this section shall not be subject to a  
10 deductible, co-payment, or coinsurance provision that is less favorable to a  
11 covered individual than the deductible, co-payment, or coinsurance provisions  
12 that apply generally to other nonprimary care items and services under the  
13 large group health insurance plan.

14 § 4071. GENDER-AFFIRMING HEALTH CARE SERVICES

15 (a) As used in this section, "gender-affirming health care services" has the  
16 same meaning as in 1 V.S.A. § 150.

17 (b)(1) A health insurance plan shall provide coverage for gender-affirming  
18 health care services that:

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

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

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

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

10          (d) This section shall apply to Medicaid and any other public health care  
11 assistance program offered or administered by the State or by any subdivision  
12 or instrumentality of the State. The coverage provided pursuant to this section  
13 by Medicaid and other public health care assistance programs shall comply  
14 with any requirements imposed on such coverage by the Centers for Medicare  
15 and Medicaid Services.

16   § 4072. MENTAL HEALTH AND SUBSTANCE USE DISORDER  
17           SERVICES

18          (a) It is the goal of the General Assembly that treatment for mental  
19 conditions be recognized as an integral component of health care, that health  
20 insurance plans cover all necessary and appropriate medical services without

1 imposing practices that create barriers to receiving appropriate care, and that  
2 integration of health care be recognized as the standard for care in this State.

3 (b) As used in this section:

4 (1) "Mental condition" means any condition or disorder involving  
5 psychiatric disabilities or substance use disorder that falls under any of the  
6 diagnostic categories listed in the mental disorders section of the International  
7 Classification of Diseases, as periodically revised.

8 (2) "Mental health provider" means any individual, corporation, facility,  
9 or institution certified or licensed by this State to provide mental health  
10 services, including a physician, nurse with recognized psychiatric specialties,  
11 hospital or other health care facility, psychologist, clinical social worker,  
12 mental health counselor, alcohol or drug abuse counselor, or an employee or  
13 agent of such provider acting in the course and scope of employment or an  
14 agency related to mental health services.

15 (3) "Rate, term, or condition" means any lifetime or annual payment  
16 limits, deductibles, copayments, coinsurance, and any other cost-sharing  
17 requirements, out-of-pocket limits, visit limits, and any other financial  
18 component of health insurance coverage that affects the covered individual.

19 (c) A health insurance plan shall provide coverage for treatment of a mental  
20 condition and shall:

1           (1) not establish any rate, term, or condition that places a greater burden  
2           on a covered individual for access to treatment for a mental condition than for  
3           access to treatment for other health conditions, including no greater co-  
4           payment for primary mental health care or services than the co-payment  
5           applicable to care or services provided by a primary care provider under a  
6           covered individual's health insurance plan and no greater co-payment for  
7           specialty mental health care or services than the co-payment applicable to care  
8           or services provided by a specialist provider under a covered individual's  
9           health insurance plan;

10           (2) not exclude from its network or list of authorized providers any  
11           licensed mental health or substance use disorder treatment provider located  
12           within the geographic coverage area of the health insurance plan if the provider  
13           is willing to meet the terms and conditions for participation established by the  
14           health insurer;

15           (3) make any deductible or out-of-pocket limits required under a health  
16           insurance plan comprehensive for coverage of both mental and physical health  
17           conditions; and

18           (4) if the health insurance plan provides prescription drug coverage,  
19           ensure that at least one medication in each therapeutic class approved by the  
20           U.S. Food and Drug Administration for the treatment of substance use  
21           disorder, including for opioid use disorder, methadone, buprenorphine, and



1 naltrexone, is available on the lowest cost-sharing tier of the plan's  
2 prescription drug formulary.

3 (d)(1)(A) A health insurance plan that does not otherwise provide for  
4 management of care under the plan, or that does not provide for the same  
5 degree of management of care for all health conditions, may provide coverage  
6 for treatment of mental conditions through a managed care organization,  
7 provided that the managed care organization is in compliance with rules  
8 adopted by the Commissioner that ensure that the system for delivery of  
9 treatment for mental conditions does not diminish or negate the purpose of this  
10 section. In reviewing policy rates and forms pursuant to section 4026 of this  
11 title, the Commissioner or the Green Mountain Care Board established in  
12 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the  
13 policy with the provisions of this section.

14 (B) The rules adopted by the Commissioner shall ensure that:

15 (i) timely and appropriate access to care is available;

16 (ii) the quantity, location, and specialty distribution of health care  
17 providers is adequate;

18 (iii) administrative or clinical protocols do not serve to reduce  
19 access to medically necessary treatment for any covered individual;

1                   (iv) utilization review and other administrative and clinical  
2                   protocols do not deter timely and appropriate care, including emergency  
3                   hospital admissions;

4                   (v) in the case of a managed care organization that contracts with  
5                   a health insurer to administer the health insurer's mental health benefits, the  
6                   portion of a health insurer's premium rate attributable to the coverage of  
7                   mental health benefits is reviewed under section 4026, 4513, 4584, or 5104 of  
8                   this title to determine whether it is excessive, inadequate, unfairly  
9                   discriminatory, unjust, unfair, inequitable, misleading, or contrary to the laws  
10                  of this State;

11                  (vi) the health insurance plan is consistent with the Blueprint for  
12                  Health with respect to mental conditions;

13                  (vii) a quality improvement project is completed annually as a  
14                  joint project between the health insurance plan and its mental health managed  
15                  care organization to implement policies and incentives to increase  
16                  collaboration among providers that will facilitate clinical integration of  
17                  services for medical and mental conditions, including:

18                  (I) evidence of how data collected from the quality  
19                  improvement project are being used to inform the practices, policies, and  
20                  future direction of care management programs for mental conditions; and

1                   (II) demonstration of how the quality improvement project is  
2                   supporting the incorporation of best practices and evidence-based guidelines  
3                   into the utilization review of mental conditions;

4                   (viii) an up-to-date list of active mental health providers in the  
5                   plan's network is available on the health insurer's and managed care  
6                   organization's websites and provided to consumers upon request; and

7                   (ix) the health insurers and managed care organizations make  
8                   accessible to consumers the toll-free telephone number for the Department of  
9                   Financial Regulation's consumer protection help line.

10                  (C) Prior to the adoption of rules pursuant to this subdivision (d)(1),  
11                  the Commissioner shall consult with the Commissioner of Mental Health and  
12                  the task force established pursuant to subsection (h) of this section concerning:

13                  (i) developing incentives and other measures addressing the  
14                  availability of providers of care and treatment for mental conditions, especially  
15                  in medically underserved areas;

16                  (ii) incorporating nationally recognized best practices and  
17                  evidence-based guidelines into the utilization review of mental conditions; and

18                  (iii) establishing benefit design, infrastructure support, and  
19                  payment methodology standards for evaluating the health insurance plan's  
20                  consistency with the Blueprint for Health with respect to the care and treatment  
21                  of mental conditions.

1           (2) A managed care organization providing or administering coverage  
2           for treatment of mental conditions on behalf of a health insurance plan shall  
3           comply with this section, sections 4064 and 4724 of this title, and 18 V.S.A.  
4           § 9414; with rules adopted pursuant to those provisions of law; and with all  
5           other obligations, under Title 18 and under this title, of the health insurance  
6           plan and the health insurer on behalf of which the managed care organization is  
7           providing or administering coverage. A violation of any provision of this  
8           section shall constitute an unfair act or practice in the business of insurance in  
9           violation of section 4723 of this title.

10           (3) A health insurer that contracts with a managed care organization to  
11           provide or administer coverage for treatment of mental conditions is fully  
12           responsible for the acts and omissions of the managed care organization,  
13           including any violations of this section or a rule adopted pursuant to this  
14           section.

15           (4) In addition to any other remedy or sanction provided for by law, if  
16           the Commissioner, after notice and an opportunity to be heard, finds that a  
17           health insurance plan or managed care organization has violated this section or  
18           any rule adopted pursuant to this section, the Commissioner may:

19                   (A) assess a penalty on the health insurer or managed care  
20           organization under section 4726 of this title;

1           (B) order the health insurer or managed care organization to cease  
2           and desist in further violations;

3           (C) order the health insurer or managed care organization to  
4           remediate the violation, including issuing an order to the health insurer to  
5           terminate its contract with the managed care organization; and

6           (D) revoke or suspend the license of a health insurer or managed care  
7           organization, or permit continued licensure subject to such conditions as the  
8           Commissioner deems necessary to carry out the purposes of this section.

9           (5) As used in this subsection, the term “managed care organization”  
10          includes any of the following entities that provide or administer the coverage  
11          of mental health benefits on behalf of a health insurance plan:

12           (A) a mental health review agent as defined in section 4064 of this  
13           title;

14           (B) a health insurer or its delegate;

15           (C) a managed care organization, as defined in 18 V.S.A. § 9402, or  
16           its delegate; and

17           (D) any other person or entity that meets the definition of a managed  
18           care organization under 18 V.S.A. § 9402 or under rules adopted by the  
19           Commissioner.

20           (e) To be eligible for coverage under this section, the service shall be  
21           rendered:

- 1           (1) For treatment of a mental condition, either:
- 2                   (A) by a licensed or certified mental health professional; or
- 3                   (B) in a mental health facility qualified pursuant to rules adopted by
- 4 the Secretary of Human Services or in an institution, approved by the Secretary
- 5 of Human Services, that provides a program for the treatment of a mental
- 6 condition pursuant to a written plan.
- 7           (2) For treatment of substance abuse disorder, either:
- 8                   (A) by a licensed alcohol and drug abuse counselor or other person
- 9 approved by the Secretary of Human Services based on rules adopted by the
- 10 Secretary that establish standards and criteria for determining eligibility under
- 11 this subdivision; or
- 12                   (B) in an institution, approved by the Secretary of Human Services,
- 13 that provides a program for the treatment of substance use disorder pursuant to
- 14 a written plan.

15   § 4073. DIABETES TREATMENT

- 16           (a) A health insurance plan shall provide coverage for the equipment,
- 17 supplies, and outpatient self-management training and education, including
- 18 medical nutrition therapy, for the treatment of insulin-dependent diabetes,

1 insulin-using diabetes, gestational diabetes, and noninsulin-using diabetes if  
2 prescribed by a health care professional.

3 (b) Diabetes outpatient self-management training and education required to  
4 be covered by this section shall be provided by a certified, registered, or  
5 licensed health care professional with specialized training in the education and  
6 management of diabetes.

7 § 4074. TREATMENT OF INHERITED METABOLIC DISORDERS

8 (a) As used in this section:

9 (1) “Inherited metabolic disorder” means a disorder caused by an  
10 inherited abnormality of body chemistry for which the State screens newborn  
11 infants.

12 (2) “Low protein modified food product” means a food product that is  
13 specifically formulated to have less than one gram of protein per serving and is  
14 intended to be used under the direction of a health care professional for the  
15 dietary treatment of a metabolic disorder.

16 (3) “Medical food” means an amino acid modified preparation that is  
17 intended to be used under the direction of a health care professional for the  
18 dietary treatment of an inherited metabolic disorder.

19 (b) A health insurance plan shall provide coverage for medical foods  
20 prescribed for medically necessary treatment for an inherited metabolic  
21 disorder.

1        (c) Coverage for low protein modified food products prescribed for  
2        medically necessary treatment of an inherited metabolic disorder shall be at  
3        least \$2,500.00 during any continuous period of 12 months for any covered  
4        individual.

5        § 4075. CRANIOFACIAL DISORDERS

6        (a)(1) A health insurance plan shall provide coverage for diagnosis and  
7        medically necessary treatment, including surgical and nonsurgical procedures,  
8        for a musculoskeletal disorder that affects any bone or joint in the face, neck,  
9        or head and is the result of accident, trauma, congenital defect, developmental  
10       defect, or pathology. Subject to subsection (b) of this section, this coverage  
11       shall be the same as that provided under the health insurance plan for any other  
12       musculoskeletal disorder in the body and shall be covered when the diagnosis  
13       or treatment, or both, is prescribed or administered by a physician or a dentist.

14       (2) This section shall not be construed to require coverage for dental  
15       services for the diagnosis or treatment of dental disorders or dental pathology  
16       primarily affecting the gums, teeth, or alveolar ridge.

17       (b) A health insurance plan may require a referral from a health care  
18       provider under contract with the plan.



1     § 4076. HOME HEALTH SERVICES

2         (a) As used in this section:

3             (1) “ Home health agency” means a nonprofit home health agency that  
4     has been certified under Title XVIII of the Social Security Act (42 U.S.C.  
5     § 1395 et seq.).

6             (2) “Home health care” means care and treatment provided by a home  
7     health agency and designed and supervised by a health care professional,  
8     without which care and treatment a person would require admission to a  
9     hospital or skilled nursing facility, as those terms are defined by Medicare  
10    regulations. The care and treatment shall consist of one or more of the  
11    following:

12                 (A) Part-time or intermittent skilled nursing care.

13                 (B) Physical therapy.

14                 (C) Part-time or intermittent home health aide services that consist  
15    primarily of caring for the patient.

16                 (D) Medical supplies, drugs and equipment, and laboratory services  
17    to the extent that laboratory services would have been covered if the patient  
18    had been admitted to a hospital or skilled nursing facility. The medical  
19    necessity of equipment may be reviewed by reference to the Medicare  
20    guidelines for durable medical equipment.

1       (b)(1) A major medical insurance plan shall provide coverage for home  
2       health care.

3       (2) A health insurer may require evidence of insurability as a  
4       prerequisite to coverage.

5       (3) The coverage shall consist of at least 40 visits by a home health  
6       agency in any calendar year, or in any continuous period of 12 months, for  
7       each person covered under the health insurance plan.

8       (4) Each visit by a member of a home health care agency, other than a  
9       home health aide, shall be considered one home health care visit, and four  
10       hours of home health aide service shall be considered one home health care  
11       visit. Coverage shall be provided for maternity and childbirth.

12       (c) Nothing in this section shall be deemed to require that home health care  
13       coverage be provided to individuals eligible for Medicare.

14       (d) A health insurance plan shall not impose greater coinsurance, co-  
15       payment, deductible, or other cost-sharing requirements for coverage of home  
16       health care than apply to the diagnosis and treatment of any other physical or  
17       mental condition under the plan.

18       § 4077. REPRODUCTIVE HEALTH CARE SERVICES

19       (a)(1) A health insurance plan shall provide coverage for outpatient  
20       contraceptive services including sterilizations, and shall provide coverage for  
21       the purchase of all prescription contraceptives and prescription contraceptive

1 devices approved by the U.S. Food and Drug Administration (FDA), except  
2 that a health insurance plan that does not provide coverage of prescription  
3 drugs is not required to provide coverage of prescription contraceptives and  
4 prescription contraceptive devices.

5 (2) A health insurance plan providing coverage required under this  
6 section shall not establish any rate, term, or condition that places a greater  
7 financial burden on a covered individual for access to contraceptive services,  
8 prescription contraceptives, and prescription contraceptive devices than for  
9 access to treatment, prescriptions, or devices for any other health condition.

10 (b) A health insurance plan shall provide coverage without any deductible,  
11 coinsurance, co-payment, or other cost-sharing requirement for at least one  
12 drug, device, or other product within each method of contraception for women  
13 identified by the FDA and prescribed by a covered individual's health care  
14 professional.

15 (1) The coverage provided pursuant to this subsection shall include  
16 patient education and counseling by the covered individual's health care  
17 provider regarding the appropriate use of the contraceptive method prescribed.

18 (2)(A) If there is a therapeutic equivalent of a drug, device, or other  
19 product for an FDA-approved contraceptive method, a health insurance plan  
20 may provide coverage for more than one drug, device, or other product and

1 may impose cost-sharing requirements as long as at least one drug, device, or  
2 other product for that method is available without cost sharing.

3 (B) If a covered individual's health care professional recommends a  
4 particular service or FDA-approved drug, device, or other product for the  
5 covered individual based on a determination of medical necessity, the health  
6 insurance plan shall defer to the health care professional's determination and  
7 judgment and shall provide coverage without cost sharing for the drug, device,  
8 or product prescribed by the health care professional for the covered  
9 individual.

10 (c) A health insurance plan shall provide coverage for voluntary  
11 sterilization procedures for men and women without any deductible,  
12 coinsurance, co-payment, or other cost-sharing requirement, except to the  
13 extent that such coverage would disqualify a high-deductible health plan from  
14 eligibility for a health savings account pursuant to 26 U.S.C. § 223.

15 (d) A health insurance plan shall provide coverage without any deductible,  
16 coinsurance, co-payment, or other cost-sharing requirement for clinical  
17 services associated with providing the drugs, devices, products, and procedures  
18 covered under this section and related follow-up services, including  
19 management of side effects, counseling for continued adherence, and device  
20 insertion and removal.

1       (e)(1) A health insurance plan shall provide coverage for a supply of  
2       prescribed contraceptives intended to last over a 12-month duration, which  
3       may be furnished or dispensed all at once or over the course of the 12 months  
4       at the discretion of the health care provider. The health insurance plan shall  
5       reimburse a health care provider or dispensing entity per unit for furnishing or  
6       dispensing a supply of contraceptives intended to last for 12 months.

7       (2) This subsection shall apply to Medicaid and any other public health  
8       care assistance program offered or administered by the State or by any  
9       subdivision or instrumentality of the State.

10       (f) Benefits provided under this section shall be the same for individuals  
11       covered under the health insurance plan.

12       (g) The coverage requirements of this section shall apply to self-  
13       administered hormonal contraceptives prescribed for a covered individual by a  
14       pharmacist in accordance with 26 V.S.A. § 2023.

15       § 4078. MIDWIFERY COVERAGE; HOME BIRTHS

16       (a) A health insurance plan providing maternity benefits shall also provide  
17       coverage for services rendered by a midwife licensed pursuant to 26 V.S.A.  
18       chapter 85 or an advanced practice registered nurse licensed pursuant to  
19       26 V.S.A. chapter 28 who is certified as a nurse midwife for services within

1 the licensed midwife's or certified nurse midwife's scope of practice and  
2 provided in a hospital or other health care facility or at home.

3 (b) Coverage for services provided by a licensed midwife or certified nurse  
4 midwife shall not be subject to any greater co-payment, deductible, or  
5 coinsurance than is applicable to any other similar benefits provided by the  
6 health insurance plan.

7 (c) This section shall apply to Medicaid and any other public health care  
8 assistance program offered or administered by the State or by any subdivision  
9 or instrumentality of the State.

10 § 4079. ABORTION AND ABORTION-RELATED SERVICES

11 (a) As used in this section, "abortion" means any medical treatment  
12 intended to induce the termination of, or to terminate, a clinically diagnosable  
13 pregnancy except for the purpose of producing a live birth.

14 (b)(1) A health insurance plan shall provide coverage for abortion and  
15 abortion-related care.

16 (2) This section shall apply to Medicaid and any other public health care  
17 assistance program offered or administered by the State or by any subdivision  
18 or instrumentality of the State.

19 (c) The coverage required by this section shall not be subject to any co-  
20 payment, deductible, coinsurance, or other cost-sharing requirement or  
21 additional charge, except:

1           (1) to the extent such coverage would disqualify a high-deductible  
2           health plan from eligibility for a health savings account pursuant to 26 U.S.C.  
3           § 223; and

4           (2) for coverage provided by Medicaid.

5           § 4080. ANESTHESIA FOR CERTAIN DENTAL PROCEDURES

6           (a) As used in this section:

7           (1) “Ambulatory surgical center” has the same meaning as in  
8           18 V.S.A. § 2141.

9           (2) “Anesthesiologist” means a physician who is licensed under  
10          26 V.S.A. chapter 23 or 33 and who either:

11          (A) has completed a residency in anesthesiology approved by the  
12          American Board of Anesthesiology or the American Osteopathic Board of  
13          Anesthesiology or their predecessors or successors; or

14          (B) is credentialed by a hospital to practice anesthesiology and  
15          engages in the practice of anesthesiology at that hospital full-time.

16          (3) “Certified registered nurse anesthetist” means an advanced practice  
17          registered nurse licensed by the Vermont Board of Nursing to practice as a  
18          certified registered nurse anesthetist.

19          (4) “Licensed mental health professional” means a licensed physician,  
20          psychologist, psychoanalyst, social worker, marriage and family therapist,  
21          clinical mental health counselor, or nurse with professional training,

1 experience, and demonstrated competence in the treatment of a mental  
2 condition or psychiatric disability.

3 (b) A health insurance plan shall provide coverage for the hospital or  
4 ambulatory surgical center charges and administration of general anesthesia  
5 administered by a licensed anesthesiologist or certified registered nurse  
6 anesthetist for dental procedures performed on a covered individual who is:

7 (1) a child seven years of age or younger who is determined by a dentist  
8 licensed pursuant to 26 V.S.A. chapter 13 to be unable to receive needed dental  
9 treatment in an outpatient setting, where the provider treating the covered  
10 individual certifies that due to the covered individual's age and the covered  
11 individual's condition or problem, hospitalization or general anesthesia in a  
12 hospital or ambulatory surgical center is required in order to perform  
13 significantly complex dental procedures safely and effectively;

14 (2) a child 12 years of age or younger with documented phobias or a  
15 documented mental condition or psychiatric disability, as determined by a  
16 physician licensed pursuant to 26 V.S.A. chapter 23 or 33 or by a licensed  
17 mental health professional, whose dental needs are sufficiently complex and  
18 urgent that delaying or deferring treatment can be expected to result in  
19 infection, loss of teeth, or other increased oral or dental morbidity; for whom a  
20 successful result cannot be expected from dental care provided under local



1 anesthesia; and for whom a superior result can be expected from dental care  
2 provided under general anesthesia; or

3 (3) a person who has exceptional medical circumstances or a  
4 developmental disability, as determined by a physician licensed pursuant to  
5 26 V.S.A. chapter 23 or 33, that place the person at serious risk.

6 (c) A health insurance plan may require prior authorization for general  
7 anesthesia and associated hospital or ambulatory surgical center charges for  
8 dental care in the same manner that prior authorization is required for these  
9 benefits in connection with other covered medical care.

10 (d) A health insurance plan may restrict coverage for general anesthesia  
11 and associated hospital or ambulatory surgical center charges to dental care  
12 that is provided by:

13 (1) a fully accredited specialist in pediatric dentistry;

14 (2) a fully accredited specialist in oral and maxillofacial surgery; and

15 (3) a dentist to whom hospital privileges have been granted.

16 (e) The provisions of this section shall not be construed to require a health  
17 insurance plan to provide coverage for the dental procedure or other dental  
18 care for which general anesthesia is provided.

19 (f) The provisions of this section shall not be construed to prevent or  
20 require reimbursement by a health insurance plan for the provision of general  
21 anesthesia and associated facility charges to a dentist holding a general

1 anesthesia endorsement issued by the Vermont Board of Dental Examiners if  
2 the dentist has provided services pursuant to this section on an outpatient basis  
3 in the dentist's own office and the dentist is in compliance with the  
4 endorsement's terms and conditions.

5 § 4081. TOBACCO CESSATION

6 (a) As used in this section, "tobacco cessation medication" means all  
7 therapies approved by the U.S. Food and Drug Administration for use in  
8 tobacco cessation.

9 (b) A health insurance plan shall provide coverage of at least one three-  
10 month supply per year of tobacco cessation medication, including over-the-  
11 counter medication, if prescribed by a licensed health care professional for an  
12 individual covered under the plan. A health insurance plan may require the  
13 individual to pay the plan's applicable prescription drug co-payment for the  
14 tobacco cessation medication.

15 (c) This section shall apply to Medicaid and any other public health care  
16 assistance program offered or administered by the State or by any subdivision  
17 or instrumentality of the State.

18 § 4082. EARLY CHILDHOOD DEVELOPMENT DISORDERS

19 (a) As used in this section:

20 (1) "Applied behavior analysis" means the design, implementation, and  
21 evaluation of environmental modifications using behavioral stimuli and

1 consequences to produce socially significant improvement in human behavior.

2 The term includes the use of direct observation, measurement, and functional  
3 analysis of the relationship between environment and behavior.

4 (2) “Autism spectrum disorders” means one or more pervasive  
5 developmental disorders as defined in the most recent edition of the Diagnostic  
6 and Statistical Manual of Mental Disorders (DSM), including autistic disorder,  
7 pervasive developmental disorder not otherwise specified, and Asperger’s  
8 disorder.

9 (3) “Behavioral health treatment” means evidence-based counseling and  
10 treatment programs, including applied behavior analysis, that are:

11 (A) necessary to develop skills and abilities for the maximum  
12 reduction of physical or mental disability and for restoration of an individual to  
13 the individual’s best functional level, or to ensure that an individual 21 years of  
14 age achieves proper growth and development; and

15 (B) provided or supervised by a nationally board-certified behavior  
16 analyst or by a licensed health care professional, provided the services  
17 performed are within the health care professional’s scope of practice and  
18 certifications.

19 (4) “Diagnosis of early childhood developmental disorders” means  
20 medically necessary assessments, evaluations, or tests to determine whether an

1 individual has an early childhood developmental delay, including an autism  
2 spectrum disorder.

3 (5) “Early childhood developmental disorder” means a childhood mental  
4 or physical impairment or combination of mental and physical impairments  
5 that results in functional limitations in major life activities, accompanied by a  
6 diagnosis defined by the DSM or the International Classification of Diseases  
7 (ICD), as periodically revised. The term includes autism spectrum disorders  
8 but does not include a learning disability.

9 (6) “Evidence-based” has the same meaning as in 18 V.S.A. § 4621.

10 (7) “Medically necessary” describes health care services that are  
11 appropriate in terms of type, amount, frequency, level, setting, and duration to  
12 the individual’s diagnosis or condition; are informed by generally accepted  
13 medical or scientific evidence; and are consistent with generally accepted  
14 practice parameters. Such services shall be informed by the unique needs of  
15 each individual and each presenting situation and shall include a determination  
16 that a service is needed to achieve proper growth and development or to  
17 prevent the onset or worsening of a health condition.

18 (8) “Natural environment” means a home or child care setting.

19 (9) “Pharmacy care” means medications prescribed by a licensed health  
20 care professional and any health-related services deemed medically necessary  
21 to determine the need for or effectiveness of a medication.

1           (10) “Psychiatric care” means direct or consultative services provided  
2           by a licensed physician certified in psychiatry by the American Board of  
3           Medical Specialties.

4           (11) “Psychological care” means direct or consultative services provided  
5           by a psychologist licensed pursuant to 26 V.S.A. chapter 55.

6           (12) “Therapeutic care” means services provided by licensed or certified  
7           speech language pathologists, occupational therapists, or physical therapists.

8           (13) “Treatment for early developmental disorders” means evidence-  
9           based care and related equipment prescribed or ordered for an individual by a  
10           licensed health care professional or a licensed psychologist who determines the  
11           care to be medically necessary, including:

12                   (A) behavioral health treatment;

13                   (B) pharmacy care;

14                   (C) psychiatric care;

15                   (D) psychological care; and

16                   (E) therapeutic care.

17           (b)(1) A health insurance plan shall provide coverage for the evidence-  
18           based diagnosis and treatment of early childhood developmental disorders,  
19           including applied behavior analysis supervised by a nationally board-certified  
20           behavior analyst, for children, beginning at birth and continuing until the child  
21           reaches 21 years of age.

1           (2) This section shall apply to Medicaid and any other public health care  
2           assistance program offered or administered by the State or by any subdivision  
3           or instrumentality of the State. Coverage provided pursuant to this section by  
4           Medicaid or any other public health care assistance program shall comply with  
5           all federal requirements imposed by the Centers for Medicare and Medicaid  
6           Services.

7           (3) A major medical insurance plan is not required to provide any  
8           benefits required by this section that exceed the essential health benefits  
9           specified under Section 1302(b) of the Patient Protection and Affordable Care  
10          Act, Public Law 111-148, as amended.

11          (c) The amount, frequency, and duration of treatment described in this  
12          section shall be based on medical necessity and may be subject to a prior  
13          authorization requirement under the health insurance plan.

14          (d) A health insurance plan shall not impose greater coinsurance, co-  
15          payment, deductible, or other cost-sharing requirements for coverage of the  
16          diagnosis or treatment of early childhood developmental disorders than apply  
17          to the diagnosis and treatment of any other physical or mental condition under  
18          the plan.

19          (e)(1) A health insurance plan shall provide coverage for applied behavior  
20          analysis when the services are provided or supervised by a licensed health care

1 professional who is working within the scope of the health care professional's  
2 license or who is a nationally board-certified behavior analyst.

3 (2) A health insurance plan shall provide coverage for services under  
4 this section delivered in the natural environment when the services are  
5 furnished by a health care professional working within the scope of the health  
6 care professional's license or under the direct supervision of a licensed health  
7 care professional or, for applied behavior analysis, by or under the supervision  
8 of a nationally board-certified behavior analyst.

9 (f) Except for inpatient services, if an individual is receiving treatment for  
10 an early developmental delay, the health insurance plan may require treatment  
11 plan reviews based on the needs of the covered individual, consistent with  
12 reviews for other diagnostic areas and with rules established by the Department  
13 of Financial Regulation. A health insurance plan may review the treatment  
14 plan for children under eight years of age not more frequently than once every  
15 six months.

16 (g) Nothing in this section shall be construed to affect any obligation to  
17 provide services to an individual under an individualized family service plan,  
18 individualized education program, or individualized service plan. A health  
19 insurance plan shall not reimburse services provided under 16 V.S.A. § 2959a.

20 (h) It is the intent of the General Assembly that the Department of  
21 Financial Regulation facilitate and encourage health insurance plans to bundle

1 co-payments accrued by beneficiaries receiving services under this section to  
2 the extent possible.

3 § 4083. SERVICES FOR VICTIMS OF SEXUAL ASSAULT

4 (a) As used in this section, “sexual assault examination” means either or  
5 both of the following:

6 (1) a physical examination of the patient, documentation of biological  
7 and physical findings, and collection of evidence; and

8 (2) treatment of the patient’s injuries; providing care for sexually  
9 transmitted infections; assessing pregnancy risk; discussing treatment options,  
10 including reproductive health services, screening for the human  
11 immunodeficiency virus, and prophylactic treatment when appropriate; and  
12 providing instructions and referrals for follow-up care.

13 (b) A health insurance plan shall not impose any co-payment or  
14 coinsurance or, to the extent permitted under federal law, deductible or other  
15 cost-sharing requirement for the sexual assault examination of a victim of  
16 alleged sexual assault for health care services associated with specific  
17 procedure codes identified in a memorandum of understanding between the  
18 health insurer and the Vermont Center for Crime Victim Services.

19 § 4084. PHYSICAL THERAPY CO-PAYMENTS FOR CERTAIN PLANS

20 For silver- and bronze-level qualified health benefit plans and any reflective  
21 health benefit plans offered at the silver or bronze level pursuant to 33 V.S.A.



1 chapter 18, subchapter 1, health care services provided by a licensed physical  
2 therapist may be subject to a co-payment requirement, provided that any  
3 required co-payment amount shall be between 125 and 150 percent of the  
4 amount of the co-payment applicable to care and services provided by a  
5 primary care provider under the plan.

6 Subchapter 10. Prescription Drug Coverage

7 § 4091. DEFINITIONS

8 As used in this subchapter:

9 (1) “Direct solicitation” means direct contact, including telephone,  
10 computer, email, instant messaging, or in-person contact, by a pharmacy  
11 provider or its agent to an individual covered under a health insurance plan  
12 without the covered individual’s consent for the purpose of marketing the  
13 pharmacy provider’s services.

14 (2) “Health care professional” means an individual licensed to practice  
15 medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a  
16 physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an  
17 advanced practice registered nurse under 26 V.S.A. chapter 28.

18 (3) “Health insurance plan” has the same meaning as in section 4011 of  
19 this chapter and includes prescription drug benefits managed by a health  
20 insurer or by a pharmacy benefit manager on behalf of a health insurer.

1           (4) “Interchangeable biological products” has the same meaning as in  
2           18 V.S.A. § 4601.

3           (5) “Out-of-pocket expenditure” means a co-payment, coinsurance,  
4           deductible, or other cost-sharing mechanism.

5           (6) “Pharmacy benefit manager” means an entity that performs  
6           pharmacy benefit management. “Pharmacy benefit management” means an  
7           arrangement for the procurement of prescription drugs at negotiated dispensing  
8           rates, the administration or management of prescription drug benefits provided  
9           by a health insurance plan for the benefit of beneficiaries, or any of the  
10          following services provided with regard to the administration of pharmacy  
11          benefits:

12               (A) mail service pharmacy;

13               (B) claims processing, retail network management, and payment of  
14               claims to pharmacies for prescription drugs dispensed to beneficiaries;

15               (C) clinical formulary development and management services;

16               (D) rebate contracting and administration;

17               (E) certain patient compliance, therapeutic intervention, and generic  
18               substitution programs; and

19               (F) disease management programs.

20           (7) “Pharmacy benefit manager affiliate” means a pharmacy or  
21           pharmacist that, directly or indirectly, through one or more intermediaries, is

1 owned or controlled by, or is under common ownership or control with, a  
2 pharmacy benefit manager.

3 (8) “Prescription drug” or “drug” has the same meaning as “prescription  
4 drug” in 26 V.S.A. § 2022 and includes:

5 (A) biological products, as defined in 18 V.S.A. § 4601;

6 (B) medications used to treat complex, chronic conditions, including  
7 medications that require administration, infusion, or injection by a health care  
8 professional;

9 (C) medications for which the manufacturer or the U.S. Food and  
10 Drug Administration requires exclusive, restricted, or limited distribution; and

11 (D) medications with specialized handling, storage, or inventory  
12 reporting requirements.

13 (9) “Prescription insulin medication” means a prescription drug that  
14 contains insulin and is used to treat diabetes.

15 (10) “Step therapy” means protocols that establish the specific sequence  
16 in which prescription drugs for a specific medical condition are to be  
17 prescribed.

18 § 4092. PRESCRIPTION DRUG COVERAGE

19 (a) A health insurance plan shall not include an annual dollar limit on  
20 prescription drug benefits.

1       (b) A health insurance plan shall limit a covered individual's out-of-pocket  
2       expenditures for all prescription drugs to not more for self-only and family  
3       coverage per year than the minimum dollar amounts in effect under Section  
4       223(c)(2)(A)(i) of the Internal Revenue Code of 1986 for self-only and family  
5       coverage, respectively.

6       (c)(1) For prescription drug benefits offered in conjunction with a high-  
7       deductible health plan (HDHP), the plan shall not provide prescription drug  
8       benefits until the expenditures applicable to the deductible under the HDHP  
9       have met the amount of the minimum annual deductibles in effect for self-only  
10       and family coverage under Section 223(c)(2)(A)(i) of the Internal Revenue  
11       Code of 1986 for self-only and family coverage, respectively, except that a  
12       plan may offer first-dollar prescription drug benefits to the extent permitted  
13       under federal law.

14       (2) Once the applicable expenditure amount set forth in subdivision (1)  
15       of this subsection has been met under the HDHP, coverage for prescription  
16       drug benefits shall begin, and the limit on out-of-pocket expenditures for  
17       prescription drug benefits shall be as specified in subsection (b) of this section.

18       (d)(1) A health insurance plan that uses step-therapy protocols shall:

19               (A) not require failure, including discontinuation due to lack of  
20       efficacy or effectiveness, diminished effect, or an adverse event, on the same  
21       drug on more than one occasion for covered individuals who are continuously

1 enrolled in a plan offered by the health insurer or its pharmacy benefit  
2 manager; and

3 (B) grant an exception to its step-therapy protocols upon request of a  
4 covered individual or the covered individual's treating health care professional  
5 under the same time parameters as set forth for prior authorization requests in  
6 18 V.S.A. § 9418b(g)(4) if any one or more of the following conditions apply:

7 (i) the prescription drug required under the step-therapy protocol  
8 is contraindicated or will likely cause an adverse reaction or physical or mental  
9 harm to the covered individual;

10 (ii) the prescription drug required under the step-therapy protocol  
11 is expected to be ineffective based on the covered individual's known clinical  
12 history, condition, and prescription drug regimen;

13 (iii) the covered individual has already tried the prescription drugs  
14 on the protocol, or other prescription drugs in the same pharmacologic class or  
15 with the same mechanism of action, which have been discontinued due to lack  
16 of efficacy or effectiveness, diminished effect, or an adverse event, regardless  
17 of whether the covered individual was covered at the time on a plan offered by  
18 the current insurer or its pharmacy benefit manager;

19 (iv) the covered individual is stable on a prescription drug selected  
20 by the covered individual's treating health care professional for the medical  
21 condition under consideration; or

1                   (v) the step-therapy protocol or a prescription drug required under  
2                   the protocol is not in the covered individual's best interests because it will:

3                   (I) pose a barrier to adherence;  
4                   (II) likely worsen a comorbid condition; or  
5                   (III) likely decrease the covered individual's ability to achieve  
6                   or maintain reasonable functional ability.

7                   (2) Nothing in this subsection shall be construed to prohibit the use of  
8                   tiered co-payments for covered individuals not subject to a step-therapy  
9                   protocol.

10                  (3) Notwithstanding any provision of subdivision (1) of this subsection  
11                  to the contrary, a health insurance shall not utilize a step-therapy, "fail first," or  
12                  other protocol that requires documented trials of a prescription drug, including  
13                  a trial documented through a "MedWatch" (FDA Form 3500), before  
14                  approving a prescription for the treatment of substance use disorder.

15                  (e)(1) A health insurance plan shall not require, as a condition of coverage,  
16                  use of drugs not indicated by the U.S. Food and Drug Administration for the  
17                  condition diagnosed and being treated under the supervision of a health care  
18                  professional.

19                  (2) Nothing in this subsection shall be construed to prevent a health care  
20                  professional from prescribing a prescription drug for off-label use.

1       (f) A health insurance plan shall apply the same cost-sharing requirements  
2       to interchangeable biological products as apply to generic drugs under the plan.

3       (g)(1) A health insurance plan shall limit a covered individual's total out-  
4       of-pocket responsibility for prescription insulin drugs to not more than \$100.00  
5       per 30-day supply, regardless of the amount, type, or number of insulin drugs  
6       prescribed for the covered individual.

7       (2) The \$100.00 monthly limit on out-of-pocket spending for  
8       prescription insulin drugs set forth in subdivision (1) of this subsection shall  
9       apply regardless of whether the covered individual has satisfied any applicable  
10       deductible requirement under the health insurance plan.

11       (h) A health insurance plan shall cover, without requiring prior  
12       authorization, at least one readily available asthma controller drug from each  
13       class of drug and mode of administration. As used in this subsection, "readily  
14       available" means that the medication is not listed on a national drug shortage  
15       list, including lists maintained by the U.S. Food and Drug Administration and  
16       by the American Society of Health-System Pharmacists.

17       (i) On a periodic basis but not less than once per calendar year, each health  
18       insurer shall notify all individuals covered under its health insurance plans of  
19       any changes in pharmaceutical coverage and provide access to the preferred  
20       drug list maintained by the health insurer or its pharmacy benefit manager.

1       (j) The Department of Financial Regulation shall enforce this section and  
2       may adopt rules as necessary to carry out the purposes of this section.

3       (k) A health insurance plan shall provide coverage for prescription drugs  
4       purchased in Canada and used in Canada or reimported legally on the same  
5       benefit terms and conditions as prescription drugs purchased in this country.  
6       For drugs purchased by mail or through the internet, the plan may require  
7       accreditation by the Internet and Mailorder Pharmacy Accreditation  
8       Commission (IMPAC/tm) or similar organization.

9       § 4093. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

10       (a) A health insurer or pharmacy benefit manager doing business in  
11       Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36  
12       to fill prescriptions for all prescription drugs in the same manner and at the  
13       same level of reimbursement as they are filled by any other pharmacist or  
14       pharmacy, including a mail-order pharmacy or a pharmacy benefit manager  
15       affiliate, with respect to the quantity of drugs or days' supply of drugs  
16       dispensed under each prescription.

17       (b) Notwithstanding any provision of a health insurance plan to the  
18       contrary, if a health insurance plan provides for payment or reimbursement that  
19       is within the lawful scope of practice of a pharmacist, the health insurer may  
20       provide payment or reimbursement for the service when the service is provided  
21       by a pharmacist.



1       (c)(1) A health insurer or pharmacy benefit manager shall permit a  
2       participating network pharmacy to perform all pharmacy services within the  
3       lawful scope of the profession of pharmacy as set forth in 26 V.S.A. chapter  
4       36.

5       (2) A health insurer or pharmacy benefit manager shall not do any of the  
6       following:

7               (A) Require a covered individual, as a condition of payment or  
8       reimbursement, to purchase pharmacist services, including prescription drugs,  
9       exclusively through a mail-order pharmacy or a pharmacy benefit manager  
10       affiliate.

11              (B) Offer or implement plan designs that require a covered individual  
12       to use a mail-order pharmacy or a pharmacy benefit manager affiliate.

13              (C) Order a covered individual, orally or in writing, including  
14       through online messaging, to use a mail-order pharmacy or a pharmacy benefit  
15       manager affiliate.

16              (D) Establish network requirements that are more restrictive than or  
17       inconsistent with State or federal law, rules adopted by the Board of Pharmacy,  
18       or guidance provided by the Board of Pharmacy or by drug manufacturers that  
19       operate to limit or prohibit a pharmacy or pharmacist from dispensing or  
20       prescribing drugs.

1           (E) Offer or implement plan designs that increase plan or patient  
2           costs if the covered individual chooses not to use a mail-order pharmacy or a  
3           pharmacy benefit manager affiliate. The prohibition in this subdivision (E)  
4           includes requiring a covered individual to pay the full cost for a prescription  
5           drug when the covered individual chooses not to use a mail-order pharmacy or  
6           a pharmacy benefit manager affiliate.

7           (F)(i) Exclude any amount paid by or on behalf of a covered  
8           individual, including any third-party payment, financial assistance, discount,  
9           coupon, or other reduction, when calculating a covered individual's  
10          contribution toward:

11           (I) the out-of-pocket limits for prescription drug costs under  
12          section 4092 of this title;

13           (II) the covered individual's deductible, if any; or

14           (III) to the extent not inconsistent with Sec. 2707 of the Public  
15          Health Service Act, 42 U.S.C. § 300gg-6, the annual out-of-pocket maximums  
16          applicable to the covered individual's health benefit plan.

17           (ii) The provisions of subdivision (i) of this subdivision (F)  
18          relating to a third-party payment, financial assistance, discount, coupon, or  
19          other reduction in out-of-pocket expenses made on behalf of a covered  
20          individual shall only apply to a prescription drug:

1                   (I) for which there is no generic drug or interchangeable  
2                   biological product, as those terms are defined in 18 V.S.A. § 4601; or

3                   (II) for which there is a generic drug or interchangeable  
4                   biological product, as those terms are defined in 18 V.S.A. § 4601, but for  
5                   which the covered individual has obtained access through prior authorization, a  
6                   step therapy protocol, or the pharmacy benefit manager's or health insurer's  
7                   exceptions and appeals process.

8                   (iii) The provisions of subdivision (i) of this subdivision (F) shall  
9                   apply to a high-deductible health plan only to the extent that it would not  
10                  disqualify the plan from eligibility for a health savings account pursuant to  
11                  26 U.S.C. § 223.

12                  (3) A health insurer or pharmacy benefit manager shall not, by contract,  
13                  written policy, or written procedure, require that a pharmacy designated by the  
14                  health insurer or pharmacy benefit manager dispense a medication directly to a  
15                  covered individual with the expectation or intention that the covered individual  
16                  will transport the medication to a health care setting for administration by a  
17                  health care professional.

18                  (4) A health insurer or pharmacy benefit manager shall not, by contract,  
19                  written policy, or written procedure, require that a pharmacy designated by the  
20                  health insurer or pharmacy benefit manager dispense a medication directly to a

1 health care setting for a health care professional to administer to a covered  
2 individual.

3 (5) A health insurer or pharmacy benefit manager shall adhere to the  
4 definitions of prescription drugs and the requirements and guidance regarding  
5 the pharmacy profession established by State and federal law and the Vermont  
6 Board of Pharmacy and shall not establish classifications of or distinctions  
7 between prescription drugs, impose penalties on prescription drug claims,  
8 attempt to dictate the behavior of pharmacies or pharmacists, or place  
9 restrictions on pharmacies or pharmacists that are more restrictive than or  
10 inconsistent with State or federal law or with rules adopted or guidance  
11 provided by the Board of Pharmacy.

12 (6) A pharmacy benefit manager or licensed pharmacy shall not make a  
13 direct solicitation to an individual covered by a health insurance plan unless  
14 one or more of the following applies:

15 (A) the covered individual has given written permission to the  
16 supplier or the ordering health care professional to contact the covered  
17 individual regarding the furnishing of a prescription item that is to be rented or  
18 purchased;

19 (B) the supplier has furnished a prescription item to the covered  
20 individual and is contacting the covered individual to coordinate delivery of  
21 the item; or

1           (C) if the contact relates to the furnishing of a prescription item other  
2           than a prescription item already furnished to the covered individual, the  
3           supplier has furnished at least one prescription item to the covered individual  
4           within the 15-month period preceding the date on which the supplier attempts  
5           to make the contact.

6           (d) A health insurer or pharmacy benefit manager shall not alter a covered  
7           individual's prescription drug order or the pharmacy chosen by the covered  
8           individual without the covered individual's consent; provided, however, that  
9           nothing in this subsection shall be construed to affect the duty of a pharmacist  
10           to substitute a lower-cost drug or biological product in accordance with the  
11           provisions of 18 V.S.A. § 4605.

12           (e) All of the provisions of this section except subsection (c) shall apply to  
13           Medicaid and any other public health care assistance program offered or  
14           administered by the State or by any subdivision or instrumentality of the State.

15                   Subchapter 11. Prevention and Treatment of Cancer

16           § 4095a. COLORECTAL CANCER SCREENING

17           (a) As used in this section, "colonoscopy" means a procedure that enables  
18           a health care professional to examine visually the inside of a patient's entire  
19           colon and includes the concurrent removal of polyps or biopsy, or both.

20           (b) A health insurance plan shall provide coverage for colorectal cancer  
21           screening, including:

1           (1) for a covered individual who is not at high risk for colorectal cancer,  
2           colorectal cancer screening examinations and laboratory tests in accordance  
3           with the most recently published recommendations established by the U.S.  
4           Preventive Services Task Force for average-risk individuals; and

5           (2) for a covered individual who is at high risk for colorectal cancer,  
6           colorectal cancer screening examinations and laboratory tests as recommended  
7           by the treating health care professional.

8           (c) For the purposes of subdivision (b)(2) of this section, an individual is at  
9           high risk for colorectal cancer if the individual has:

10           (1) a family medical history of colorectal cancer or a genetic syndrome  
11           predisposing the individual to colorectal cancer;

12           (2) a prior occurrence of colorectal cancer or precursor polyps;

13           (3) a prior occurrence of a chronic digestive disease condition such as  
14           inflammatory bowel disease, Crohn's disease, or ulcerative colitis; or

15           (4) other predisposing factors as determined by the individual's treating  
16           health care professional.

17           (d) Colorectal cancer screening services performed under contract with the  
18           insurer shall not be subject to any co-payment, deductible, coinsurance, or  
19           other cost-sharing requirement. In addition, a covered individual shall not be  
20           subject to any additional charge for any service associated with a procedure or

1 test for colorectal cancer screening, which may include one or more of the  
2 following:

3 (1) removal of tissue or other matter;

4 (2) laboratory services;

5 (3) health care professional services;

6 (4) facility use; and

7 (5) anesthesia.

8 § 4095b. MAMMOGRAPHY AND OTHER BREAST IMAGING  
9 SERVICES

10 (a)(1) A health insurance plan shall provide coverage for screening  
11 mammography and for other medically necessary breast imaging services upon  
12 recommendation of a health care professional as needed to detect the presence  
13 of breast cancer and other abnormalities of the breast or breast tissue. In  
14 addition, a health insurance plan shall provide coverage for screening by  
15 ultrasound or another appropriate imaging service for a covered individual for  
16 whom the results of a screening mammogram were inconclusive or who has  
17 dense breast tissue, or both.

18 (2) Benefits provided shall cover the full cost of the mammography,  
19 ultrasound, and other breast imaging services and shall not be subject to any  
20 co-payment, deductible, coinsurance, or other cost-sharing requirement or  
21 additional charge, except to the extent that such coverage would disqualify a

1 high-deductible health plan from eligibility for a health savings account  
2 pursuant to 26 U.S.C. § 223.

3 (b) This section shall apply only to procedures conducted by test facilities  
4 accredited by the American College of Radiologists.

5 (c) As used in this section:

6 (1) “Mammography” means the x-ray examination of the breast using  
7 equipment dedicated specifically for mammography, including the x-ray tube,  
8 filter, compression device, and digital detector. The term includes breast  
9 tomosynthesis.

10 (2) “Other breast imaging services” means diagnostic mammography,  
11 ultrasound, and magnetic resonance imaging services that enable health care  
12 professionals to detect the presence or absence of breast cancer and other  
13 abnormalities affecting the breast or breast tissue.

14 (3) “Screening” includes the mammography or ultrasound test procedure  
15 and a qualified health care professional’s interpretation of the results of the  
16 procedure, including additional views and interpretation as needed.

17 § 4095c. PROSTATE CANCER SCREENINGS

18 A health insurance plan shall provide coverage for prostate cancer  
19 screenings consistent with the recommendations of the Centers for Disease  
20 Control and Prevention or upon recommendation of the covered individual’s  
21 health care professional. Benefits provided shall be at least as favorable as



1 coverage for other cancer screening procedures and subject to the same dollar  
2 limits, deductibles, and coinsurance factors within the provisions of the policy.

3 § 4095d. CHEMOTHERAPY TREATMENT AND ORAL ANTICANCER  
4 MEDICATIONS

5 (a) A health insurance plan shall provide coverage for medically necessary  
6 growth cell stimulating factor injections taken as part of a prescribed  
7 chemotherapy regimen.

8 (b) A health insurance plan shall provide coverage for prescribed, orally  
9 administered anticancer medications used to kill or slow the growth of  
10 cancerous cells that is not less favorable on a financial basis than intravenously  
11 administered or injected anticancer medications covered under the covered  
12 individual's plan.

13 § 4095e. CLINICAL TRIALS FOR CANCER PATIENTS

14 (a) The Commissioner shall, after notice and hearing, adopt rules requiring  
15 that all health insurance plans issued in this State provide coverage for routine  
16 costs for covered individuals who participate in cancer clinical trials.

17 (1) Any rules adopted under this section shall be limited to the coverage  
18 of routine costs for covered individuals who participate in a cancer clinical  
19 trial.

20 (2) Any rules adopted under this section shall be restricted to approved  
21 cancer clinical trials conducted under the auspices of the following cancer care

1 providers (cancer care providers): The University of Vermont Medical Center,  
2 the Norris Cotton Cancer Center at Dartmouth-Hitchcock Medical Center, and  
3 approved clinical trials administered by a hospital and its affiliated, qualified  
4 cancer care providers.

5 (3) For participation in clinical trials located outside Vermont, coverage  
6 under this section shall be required only if the covered individual provides  
7 notice to the health insurance plan prior to participation in the clinical trial, and  
8 one or more of the following circumstances applies:

9 (A) no clinical trial is available at the Vermont or New Hampshire  
10 cancer care providers described in subdivision (2) of this subsection (a);

11 (B) the covered individual already has completed a clinical trial at  
12 one of the Vermont or New Hampshire cancer care providers described in  
13 subdivision (2) of this subsection (a) and the covered individual's cancer care  
14 provider determines that a subsequent clinical trial related to the original  
15 diagnosis is available outside the health benefit plan's network and that  
16 participation in that clinical trial would be in the best interests of the covered  
17 individual, even if a comparable clinical trial is available at that time at one or  
18 both of the Vermont or New Hampshire cancer care providers described in  
19 subdivision (2) of this subsection (a); or

20 (C) the health insurance plan has already approved a referral of the  
21 covered individual to an out-of-network cancer care provider and an out-of-

1 network clinical trial becomes available and the covered individual's cancer  
2 care provider determines participation in that clinical trial would be in the best  
3 interests of the covered individual, even if a comparable clinical trial is  
4 available at one or both of the Vermont or New Hampshire cancer care  
5 providers described in subdivision (2) of this subsection (a).

6 (4) If a covered individual participates in a clinical trial administered by  
7 a cancer care provider that is not in the health insurance plan's provider  
8 network, the health insurance plan may require that routine follow-up care be  
9 provided within the health insurance plan's network, unless the cancer care  
10 provider determines this would not be in the best interest of the covered  
11 individual.

12 (b) This section shall apply to Medicaid and any other public health care  
13 assistance program offered or administered by the State or by any subdivision  
14 or instrumentality of the State.

15 § 4095f. OFF-LABEL USE OF PRESCRIPTION DRUGS FOR CANCER

16 (a) As used in this section:

17 (1) "Medical or scientific evidence" means one or more of the following  
18 sources:

19 (A) peer-reviewed scientific studies published in or accepted for  
20 publication by medical journals that meet nationally recognized requirements

1 for scientific manuscripts and that submit most of their published articles for  
2 review by experts who are not part of the editorial staff;

3 (B) peer-reviewed literature, biomedical compendia, and other  
4 medical literature that meet the criteria of the National Institutes of Health's  
5 National Library of Medicine for indexing in Index Medicus, Excerpta  
6 Medicus (EMBASE), Medline, and MEDLARS database Health Services  
7 Technology Assessment Research (HSTAR);

8 (C) medical journals recognized by the Secretary of the U.S.  
9 Department of Health and Human Services under Section 1861(t)(2) of the  
10 Social Security Act;

11 (D) the following standard reference compendia: the American  
12 Hospital Formulary Service-Drug Information, the American Medical  
13 Association Drug Evaluation, and the United States Pharmacopoeia-Drug  
14 Information;

15 (E) findings, studies, or research conducted by or under the auspices  
16 of federal government agencies and nationally recognized federal research  
17 institutes, including the Agency for Health Care Policy and Research, National  
18 Institutes of Health, National Cancer Institute, National Academy of Sciences,  
19 Centers for Medicare and Medicaid Services, and any national board  
20 recognized by the National Institutes of Health for the purpose of evaluating  
21 the medical value of health services; and

1           (F) peer-reviewed abstracts accepted for presentation at major  
2           medical association meetings.

3           (2) “Medically accepted indication” includes any use of a drug that has  
4           been approved by the U.S. Food and Drug Administration and includes another  
5           use of the drug if that use is prescribed by the covered individual’s health care  
6           professional and supported by medical or scientific evidence.

7           (3) “Off-label use” means the prescription and use of drugs for  
8           medically accepted indications other than those stated in the labeling approved  
9           by the U.S. Food and Drug Administration.

10          (b) A health insurance plan shall provide coverage for off-label use in  
11          cancer treatment in accordance with the following:

12           (1) A health insurance plan contract shall not exclude coverage for any  
13           drug used for the treatment of cancer on grounds that the drug has not been  
14           approved by the U.S. Food and Drug Administration, provided the use of the  
15           drug is a medically accepted indication for the treatment of cancer.

16           (2) Coverage of a drug required by this section also includes medically  
17           necessary services associated with the administration of the drug.

18           (3) This section shall not be construed to require coverage for a drug  
19           when the U.S. Food and Drug Administration has determined its use to be  
20           contraindicated for treatment of the current indication.

1           (4) A drug use that is covered under subdivision (1) of this subsection  
2           shall not be denied coverage based on a “medical necessity” requirement  
3           except for a reason unrelated to the legal status of the drug use.

4           (5) A health insurance plan that provides coverage of a drug as required  
5           by this section may contain provisions for maximum benefits and coinsurance  
6           and reasonable limitations, deductibles, and exclusions to the same extent these  
7           provisions are applicable to coverage of all prescription drugs and are not  
8           inconsistent with the requirements of this section.

9           (c) A determination by a health insurer that an off-label use of a  
10          prescription drug under this section is not a medically accepted indication  
11          supported by medical or scientific evidence is eligible for review under section  
12          4063 of this title.

13          (d) This section shall apply to Medicaid and any other public health care  
14          assistance program offered or administered by the State or by any subdivision  
15          or instrumentality of the State.

16                   Subchapter 12. Service Delivery and Treatment Modalities

17           § 4098a. COVERAGE OF HEALTH CARE SERVICES DELIVERED

18                   THROUGH TELEMEDICINE AND BY STORE-AND-FORWARD

19                   MEANS

1       (a) As used in this section:

2               (1) “Distant site” means the location of the health care provider  
3       delivering services through telemedicine at the time the services are provided.

4               (2) “Health insurance plan” has the same meaning as in section 4011 of  
5       this title and also includes a stand-alone dental plan or policy or other dental  
6       insurance plan offered by a dental insurer.

7               (3) “Health care facility” has the same meaning as in 18 V.S.A. § 9402.

8               (4) “Health care provider” means a person, partnership, or corporation,  
9       other than a facility or institution, that is licensed, certified, or otherwise  
10       authorized by law to provide professional health care services, including dental  
11       services, in this State to an individual during that individual’s medical care,  
12       treatment, or confinement.

13               (5) “Originating site” means the location of the patient, whether or not  
14       accompanied by a health care provider, at the time services are provided by a  
15       health care provider through telemedicine, including a health care provider’s  
16       office, a hospital, or a health care facility, or the patient’s home or another  
17       nonmedical environment such as a school-based health center, a university-  
18       based health center, or the patient’s workplace.

19               (6) “Store-and-forward” means an asynchronous transmission of  
20       medical information, such as one or more video clips, audio clips, still images,  
21       x-rays, magnetic resonance imaging scans, electrocardiograms,

1 electroencephalograms, or laboratory results, sent over a secure connection that  
2 complies with the requirements of the Health Insurance Portability and  
3 Accountability Act of 1996, Pub. L. No. 104-191 to be reviewed at a later date  
4 by a health care provider at a distant site who is trained in the relevant  
5 specialty. In store-and-forward, the health care provider at the distant site  
6 reviews the medical information without the patient present in real time and  
7 communicates a care plan or treatment recommendation back to the patient or  
8 referring provider, or both.

9 (7) “Telemedicine” means the delivery of health care services, including  
10 dental services, such as diagnosis, consultation, or treatment, through the use  
11 of live interactive audio and video over a secure connection that complies with  
12 the requirements of the Health Insurance Portability and Accountability Act of  
13 1996, Pub. L. No. 104-191.

14 (b)(1) A health insurance plan shall provide coverage for health care  
15 services and dental services delivered through telemedicine by a health care  
16 provider at a distant site to a covered individual at an originating site to the  
17 same extent that the plan would cover the services if they were provided  
18 through in-person consultation.

19 (2)(A) A health insurance plan shall provide the same reimbursement  
20 rate for services billed using equivalent procedure codes and modifiers, subject  
21 to the terms of the health insurance plan and provider contract, regardless of



1 whether the service was provided through an in-person visit with the health  
2 care provider or through telemedicine.

3 (B) The provisions of subdivision (A) of this subdivision (2) shall not  
4 apply:

5 (i) to services provided pursuant to the health insurance plan's  
6 contract with a third-party telemedicine vendor to provide health care or dental  
7 services; or

8 (ii) in the event that a health insurer and health care provider enter  
9 into a value-based contract for health care services that include care delivered  
10 through telemedicine or by store-and-forward means.

11 (c) A health insurance plan may charge a deductible, co-payment, or  
12 coinsurance for a health care service or dental service provided through  
13 telemedicine as long as it does not exceed the deductible, co-payment, or  
14 coinsurance applicable to an in-person consultation.

15 (d) A health insurance plan may limit coverage to health care providers in  
16 the plan's network. A health insurance plan shall not impose limitations on the  
17 number of telemedicine consultations a covered individual may receive that  
18 exceed limitations otherwise placed on in-person covered services.

19 (e) Nothing in this section shall be construed to prohibit a health insurance  
20 plan from providing coverage for only those services that are medically

1 necessary and are clinically appropriate for delivery through telemedicine,  
2 subject to the terms and conditions of the covered individual's policy.

3 (f)(1) A health insurance plan shall reimburse for health care services and  
4 dental services delivered by store-and-forward means.

5 (2) A health insurance plan shall not impose more than one cost-sharing  
6 requirement on a covered individual for receipt of health care services or  
7 dental services delivered by store-and-forward means. If the services would  
8 require cost sharing under the terms of the covered individual's health  
9 insurance plan, the plan may impose the cost sharing requirement on the  
10 services of the originating site health care provider or of the distant site health  
11 care provider, but not both.

12 (g) A health insurance plan shall not construe a covered individual's receipt  
13 of services delivered through telemedicine or by store-and-forward means as  
14 limiting in any way the covered individual's ability to receive additional  
15 covered in-person services from the same or a different health care provider for  
16 diagnosis or treatment of the same condition.

17 (h) Nothing in this section shall be construed to require a health insurance  
18 plan to reimburse the distant site health care provider if the distant site health  
19 care provider has insufficient information to render an opinion.

20 (i) In order to facilitate the use of telemedicine in treating substance use  
21 disorder, when the originating site is a health care facility, health insurers and

1 the Department of Vermont Health Access shall ensure that the health care  
2 provider at the distant site and the health care facility at the originating site are  
3 both reimbursed for the services rendered, unless the health care providers at  
4 both the distant and originating sites are employed by the same entity.

5 (j) This section shall apply to Medicaid and any other public health care  
6 assistance program offered or administered by the State or by any subdivision  
7 or instrumentality of the State.

8 § 4098b. COVERAGE OF HEALTH CARE SERVICES DELIVERED BY  
9 AUDIO-ONLY TELEPHONE

10 (a) As used in this section, “health care provider” means a person,  
11 partnership, or corporation, other than a facility or institution, that is licensed,  
12 certified, or otherwise authorized by law to provide professional health care  
13 services in this State to an individual during that individual’s medical care,  
14 treatment, or confinement.

15 (b)(1) A health insurance plan shall provide coverage for all medically  
16 necessary, clinically appropriate health care services delivered remotely by  
17 audio-only telephone to the same extent that the plan would cover the services  
18 if they were provided through in-person consultation. Services covered under  
19 this subdivision shall include services that are covered when provided in the  
20 home by home health agencies.

1           (2)(A) A health insurance plan shall provide the same reimbursement  
2           rate for services billed using equivalent procedure codes and modifiers, subject  
3           to the terms of the health insurance plan and provider contract, regardless of  
4           whether the service was provided through an in-person visit with the health  
5           care provider or by audio-only telephone.

6           (B) The provisions of subdivision (A) of this subdivision (2) shall not  
7           apply in the event that a health insurer and health care provider enter into a  
8           value-based contract for health care services that include care delivered by  
9           audio-only telephone.

10          (c) A health insurance plan may charge an otherwise permissible  
11          deductible, co-payment, or coinsurance for a health care service delivered by  
12          audio-only telephone, provided that it does not exceed the deductible, co-  
13          payment, or coinsurance applicable to an in-person consultation.

14          (d) A health insurance plan shall not require a health care provider to have  
15          an existing relationship with a covered individual in order to be reimbursed for  
16          health care services delivered by audio-only telephone.

17          (e) This section shall apply to Medicaid, to the extent permitted by the  
18          Centers for Medicare and Medicaid Services, and any other public health care  
19          assistance program offered or administered by the State or by any subdivision  
20          or instrumentality of the State.

1     § 4098c. COVERED SERVICES PROVIDED BY NATUROPATHIC

2             PHYSICIANS

3             (a) A health insurance plan shall provide coverage for medically necessary  
4     health care services covered by the plan when provided by a naturopathic  
5     physician licensed in this State for treatment within the scope of practice  
6     described in 26 V.S.A. chapter 81 and shall recognize naturopathic physicians  
7     who practice primary care to be primary care physicians.

8             (b) Health care services provided by naturopathic physicians may be  
9     subject to reasonable deductibles, co-payment and coinsurance amounts, and  
10    fee or benefit limits consistent with those applicable to other primary care  
11    physicians under the plan, as well as practice parameters, cost-effectiveness  
12    and clinical efficacy standards, and utilization review consistent with any  
13    applicable rules published by the Department of Financial Regulation. Any  
14    amounts, limits, standards, and review shall not function to direct treatment in  
15    a manner unfairly discriminative against naturopathic care, and collectively  
16    shall be not more restrictive than those applicable under the same plan to care  
17    or services provided by other primary care physicians, but may allow for the  
18    management of the benefit consistent with variations in practice patterns and  
19    treatment modalities among different types of health care professionals.

20            (c) A health insurance plan may require that the naturopathic physician's  
21    services be provided by a licensed naturopathic physician under contract with

1 the insurer or shall be covered in a manner consistent with out-of-network  
2 provider reimbursement practices for primary care physicians; however, this  
3 shall not relieve a health insurance plan from compliance with the applicable  
4 network adequacy requirements adopted by the Commissioner by rule.

5 (d) Nothing contained in this section shall be construed as impeding or  
6 preventing either the provision or the coverage of health care services by  
7 licensed naturopathic physicians, within the lawful scope of naturopathic  
8 practice, in hospital facilities on a staff or employee basis.

9 (e) This section shall apply to Medicaid and any other public health care  
10 assistance program offered or administered by the State or by any subdivision  
11 or instrumentality of the State.

12 § 4098d. COVERED SERVICES PROVIDED BY ATHLETIC TRAINERS

13 (a) To the extent a health insurance plan provides coverage for a particular  
14 type of health care service or for any particular medical condition that is within  
15 the scope of practice of athletic trainers, a licensed athletic trainer who acts  
16 within the scope of practice authorized by 26 V.S.A. chapter 83 shall not be  
17 denied reimbursement by the health insurance plan for those covered services  
18 if the health insurance plan would reimburse another health care professional  
19 for those services.

20 (b) Health care services provided by athletic trainers may be subject to  
21 reasonable deductibles, co-payment and co-insurance amounts, fee or benefit

1 limits, practice parameters, and utilization review consistent with applicable  
2 rules adopted by the Department of Financial Regulation, provided that the  
3 amounts, limits, and review shall not function to direct treatment in a manner  
4 unfairly discriminative against athletic trainer care, and collectively shall be  
5 not more restrictive than those applicable under the same policy for care or  
6 services provided by other health care professionals but allowing for the  
7 management of the benefit consistent with variations in practice patterns and  
8 treatment modalities among different types of health care professionals.

9 (c) A health insurer may require that the athletic trainer services be  
10 provided by a licensed athletic trainer under contract with the insurer.

11 (d) Nothing in this section shall be construed as impeding or preventing  
12 either the provision or coverage of health care services by licensed athletic  
13 trainers within the lawful scope of athletic trainer practice.

14 § 4098e. CHOICE OF PROVIDERS FOR VISION CARE AND MEDICAL  
15 EYE CARE SERVICES

16 (a) As used in this section:

17 (1) “Covered services” means services and materials for which  
18 reimbursement from a vision care plan or other health insurance plan is  
19 provided by a member’s or subscriber’s plan contract, or for which a  
20 reimbursement would be available but for application of the deductible, co-

1 payment, or coinsurance requirements under the member's or subscriber's  
2 health insurance plan.

3 (2) "Health insurance plan" has the same meaning as in section 4011 of  
4 this chapter and also includes vision care plans.

5 (3) "Materials" includes lenses, devices containing lenses, prisms, lens  
6 treatments and coatings, contact lenses, and prosthetic devices to correct,  
7 relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

8 (4) "Ophthalmologist" means a physician licensed pursuant to 26 V.S.A.  
9 chapter 23 or an osteopathic physician licensed pursuant to 26 V.S.A. chapter  
10 33 who has had special training in the field of ophthalmology.

11 (5) "Optician" means a person licensed pursuant to 26 V.S.A. chapter  
12 47.

13 (6) "Optometrist" means a person licensed pursuant to 26 V.S.A.  
14 chapter 30.

15 (7) "Vision care plan" means an integrated or stand-alone plan, policy,  
16 or contract providing vision benefits to enrollees with respect to covered  
17 services or covered materials, or both.

18 (b) To the extent a health insurance plan provides coverage for vision care  
19 or medical eye care services, it shall cover those services whether provided by  
20 a licensed optometrist or by a licensed ophthalmologist, provided the health



1 care professional is acting within the health care professional's authorized  
2 scope of practice and participates in the plan's network.

3 (c) A health insurance plan shall impose no greater co-payment,  
4 coinsurance, or other cost-sharing amount for services when provided by an  
5 optometrist than for the same service when provided by an ophthalmologist.

6 (d) A health insurance plan shall provide to a licensed health care  
7 professional acting within the health care professional's scope of practice the  
8 same level of reimbursement or other compensation for providing vision care  
9 and medical eye care services that are within the lawful scope of practice of the  
10 professions of medicine, optometry, and osteopathy, regardless of whether the  
11 health care professional is an optometrist or an ophthalmologist.

12 (e)(1) A health insurer shall permit a licensed optometrist to participate in  
13 plans or contracts providing for vision care or medical eye care to the same  
14 extent as it does an ophthalmologist.

15 (2) A health insurer shall not require a licensed optometrist or  
16 ophthalmologist to provide discounted materials benefits or to participate as a  
17 provider in another health insurance or vision care plan or contract as a  
18 condition or requirement for the optometrist's or ophthalmologist's  
19 participation as a provider in any health insurance or vision care plan or  
20 contract.

1       (f)(1) An agreement between a health insurer and an optometrist or  
2       ophthalmologist for the provision of vision services to plan members or  
3       subscribers in connection with coverage under a stand-alone vision care plan or  
4       other health insurance plan shall not require that an optometrist or  
5       ophthalmologist provide services or materials at a fee limited or set by the plan  
6       or insurer unless the services or materials are reimbursed as covered services  
7       under the contract.

8       (2) An optometrist or ophthalmologist shall not charge more for services  
9       and materials that are noncovered services under a vision care plan or other  
10       health insurance plan than the optometrist's or ophthalmologist's usual and  
11       customary rate for those services and materials.

12       (3) Reimbursement paid by a vision care plan or other health insurance  
13       plan for covered services and materials shall be reasonable and shall not  
14       provide nominal reimbursement in order to claim that services and materials  
15       are covered services.

16       (4)(A) A vision care plan or other health insurance plan shall not restrict  
17       or otherwise limit, directly or indirectly, an optometrist's, ophthalmologist's,  
18       or independent optician's choice of or relationship with sources and suppliers  
19       of products, services, or materials or use of optical laboratories if the  
20       optometrist, ophthalmologist, or optician determines that the source, supplier,  
21       or laboratory that the optometrist, ophthalmologist, or optician has selected

1 offers the products, services, or materials in a manner that is more beneficial to  
2 the consumer, including with respect to cost, quality, timing, or selection, than  
3 the source, supplier, or laboratory selected by the vision care plan or other  
4 health insurance plan. The plan shall not impose any penalty or fee on an  
5 optometrist, ophthalmologist, or independent optician for using any supplier,  
6 optical laboratory, product, service, or material.

7 (B) The optometrist, ophthalmologist, or optician shall notify the  
8 consumer of any additional costs the consumer may incur as the result of  
9 procuring the products, services, or materials from the source, supplier, or  
10 laboratory selected by the optometrist, ophthalmologist, or optician instead of  
11 from the source, supplier, or laboratory selected by the vision care plan or  
12 other health insurance plan.

13 (C) Nothing in this subdivision (4) shall be construed to prevent a  
14 vision care plan or other health insurance plan from informing its policyholders  
15 of the benefits available under the plan or from conducting an audit of an  
16 optometrist's, ophthalmologist's, or optician's use of alternative sources,  
17 suppliers, or laboratories.

18 (D) The provisions of this subdivision (4) shall not apply to  
19 Medicaid.

20 (g)(1) Except as otherwise specified in subdivision (f)(4), this section shall  
21 apply to Medicaid and any other public health care assistance program offered

1 or administered by the State or by any subdivision or instrumentality of the  
2 State.

3 (2) The Department of Financial Regulation shall enforce the provisions  
4 of this section as they relate to health insurance plans and vision care plans  
5 other than Medicaid.

6 \* \* \* Conforming Revisions \* \* \*

7 Sec. 3. 1 V.S.A. § 317(c) is amended to read:

8 (c) The following public records are exempt from public inspection and  
9 copying:

10 \* \* \*

11 (28) Records of, and internal materials prepared for, independent  
12 external reviews of health care service decisions pursuant to ~~8 V.S.A. § 4089f~~  
13 8 V.S.A. § 4063 and of mental health care service decisions pursuant to  
14 ~~8 V.S.A. § 4089a~~ 8 V.S.A. § 4064.

15 \* \* \*

16 Sec. 4. 8 V.S.A. § 4512(b) is amended to read:

17 (b) Subject to the approval of the Commissioner or the Green Mountain  
18 Care Board established in 18 V.S.A. chapter 220, as appropriate, a hospital  
19 service corporation may establish, maintain, and operate a medical service plan  
20 as defined in section 4583 of this title. The Commissioner or the Board may  
21 refuse approval if the Commissioner or the Board finds that the rates submitted

1 are excessive, inadequate, or unfairly discriminatory, fail to protect the hospital  
2 service corporation's solvency, or fail to meet the standards of affordability,  
3 promotion of quality care, and promotion of access pursuant to section ~~4062~~  
4 4026 of this title. The contracts of a hospital service corporation that operates  
5 a medical service plan under this subsection shall be governed by chapter 125  
6 of this title to the extent that they provide for medical service benefits, and by  
7 this chapter to the extent that the contracts provide for hospital service benefits.

8 Sec. 5. 8 V.S.A. § 4515a is amended to read:

9 § 4515a. FORM AND RATE FILING; FILING FEES

10 Every contract or certificate form, or amendment thereof, including the rates  
11 proposed to be charged by the corporation, shall be filed with the  
12 Commissioner or the Green Mountain Care Board established in 18 V.S.A.  
13 chapter 220, as appropriate, for the Commissioner's or the Board's approval  
14 prior to issuance or use. Prior to approval, there shall be a public comment  
15 period pursuant to section ~~4062~~ 4026 of this title. In addition, each such filing  
16 shall be accompanied by payment to the Commissioner or the Board, as  
17 appropriate, of a nonrefundable fee of \$150.00 and the plain language  
18 summary of rate increases pursuant to section ~~4062~~ 4026 of this title.

1      Sec. 6. 8 V.S.A. § 4516 is amended to read:

2      § 4516. ANNUAL REPORT TO COMMISSIONER

3          Annually, on or before March 1, a hospital service corporation shall file  
4          with the Commissioner of Financial Regulation a statement sworn to by the  
5          president and treasurer of the corporation showing its condition on December  
6          31. The statement shall be in such form and contain such matters as the  
7          Commissioner shall prescribe. To qualify for the tax exemption set forth in  
8          section 4518 of this title, the statement shall include a certification that the  
9          hospital service corporation operates on a nonprofit basis for the purpose of  
10          providing an adequate hospital service plan to individuals of the State, both  
11          groups and nongroups, without discrimination based on age, gender,  
12          geographic area, industry, and medical history, except as allowed by  
13          ~~subdivisions 4080g(b)(7)(B)(ii) and 4080g(c)(8)(B)(ii) of this title and by 33~~  
14          V.S.A. § 1811(f)(2)(B).

15      Sec. 7. 8 V.S.A. § 4587 is amended to read:

16      § 4587. FILING AND APPROVAL OF CONTRACTS

17          A medical service corporation that has received a permit from the  
18          Commissioner of Financial Regulation under section 4584 of this title shall not  
19          thereafter issue a contract to a subscriber or charge a rate that is different from  
20          copies of the contracts and rates originally filed with and approved by the  
21          Commissioner at the time the permit was issued to the medical service

1 corporation, until the medical service corporation has filed copies of its  
2 proposed contracts and rates and they have been approved by the  
3 Commissioner or the Green Mountain Care Board established in 18 V.S.A.  
4 chapter 220, as appropriate. Prior to approval, there shall be a public comment  
5 period pursuant to section ~~4062~~ 4026 of this title. Each such filing of a  
6 contract or ~~the rate therefor~~ shall be accompanied by payment to the  
7 Commissioner or the Board, as appropriate, of a nonrefundable fee of \$150.00.  
8 A medical service corporation shall file a plain language summary of rate  
9 increases pursuant to section ~~4062~~ 4026 of this title.

10 Sec. 8. 8 V.S.A. § 4588 is amended to read:

11 § 4588. ANNUAL REPORT TO COMMISSIONER

12 Annually, on or before March 1, a medical service corporation shall file  
13 with the Commissioner of Financial Regulation a statement sworn to by the  
14 president and treasurer of the corporation showing its condition on December  
15 31, which shall be in such form and contain such matters as the Commissioner  
16 shall prescribe. To qualify for the tax exemption set forth in section 4590 of  
17 this title, the statement shall include a certification that the medical service  
18 corporation operates on a nonprofit basis for the purpose of providing an  
19 adequate medical service plan to individuals of the State, both groups and  
20 nongroups, without discrimination based on age, gender, geographic area,  
21 industry, and medical history, except as allowed by ~~subdivisions~~

1 ~~4080g(b)(7)(B)(ii) and 4080g(c)(8)(B)(ii) of this title and by~~ 33 V.S.A. §  
2 1811(f)(2)(B).

3 Sec. 9. 8 V.S.A. § 4724(7)(E) is amended to read:

4 (E) Making or permitting unfair discrimination between married  
5 couples and parties to a civil union as defined under 15 V.S.A. § 1201, with  
6 regard to the offering of insurance benefits to a couple, a spouse, a party to a  
7 civil union, or their family. The Commissioner shall adopt rules necessary to  
8 carry out the purposes of this subdivision. The rules shall ensure that  
9 insurance contracts and policies offered to married couples, spouses, and  
10 families are also made available to parties to a civil union and their families.  
11 The Commissioner may adopt by order standards and a process to bring the  
12 forms currently on file and approved by the Department into compliance with  
13 Vermont law. The standards and process may differ from the provisions  
14 contained in chapter 101, subchapter 6, and sections ~~4062~~ 4026, 4201, 4515a,  
15 4587, 4685, 4687, 4688, 4985, 5104, and 8005 of this title where, in the  
16 Commissioner's opinion, the provisions regarding filing and approval of forms  
17 are not desirable or necessary to effectuate the purposes of this section.

18 Sec. 10. 8 V.S.A. § 5104(a) is amended to read:

19 (a)(1) A health maintenance organization that has received a certificate of  
20 authority under section 5102 of this title shall file and obtain approval of all  
21 policy forms and rates as provided in sections ~~4062 and 4062a~~ 4026 and 4027



1 of this title. This requirement shall include the filing of administrative  
2 retentions for any business in which the organization acts as a third party  
3 administrator or in any other administrative processing capacity. The  
4 Commissioner or the Green Mountain Care Board, as appropriate, may request  
5 and shall receive any information that the Commissioner or the Board deems  
6 necessary to evaluate the filing. In addition to any other information  
7 requested, the Commissioner or the Board shall require the filing of  
8 information on costs for providing services to the organization's Vermont  
9 members affected by the policy form or rate, including Vermont claims  
10 experience, and administrative and overhead costs allocated to the service of  
11 Vermont members. Prior to approval, there shall be a public comment period  
12 pursuant to section ~~4062~~ 4026 of this title. A health maintenance organization  
13 shall file a summary of rate filings pursuant to section ~~4062~~ 4026 of this title.

14 (2) The Commissioner or the Board shall refuse to approve the form of  
15 evidence of coverage, filing, or rate if it contains any provision that is unjust,  
16 unfair, inequitable, misleading, or contrary to the law of the State or plan of  
17 operation, or if the rates are excessive, inadequate, or unfairly discriminatory,  
18 fail to protect the organization's solvency, or fail to meet the standards of  
19 affordability, promotion of quality care, and promotion of access pursuant to  
20 section ~~4062~~ 4026 of this title. No evidence of coverage shall be offered to

1 any potential member unless the person making the offer has first been  
2 licensed as an insurance agent in accordance with chapter 131 of this title.

3 Sec. 11. 8 V.S.A. § 5115 is amended to read:

4 § 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE  
5 ORGANIZATIONS

6 Any nonprofit health maintenance organization subject to this chapter shall  
7 offer nongroup plans to individuals in accordance with 33 V.S.A. § 1811  
8 without discrimination based on age, gender, industry, and medical history,  
9 except as allowed by ~~subdivisions 4080g(b)(7)(B)(ii) and 4080g(e)(8)(B)(ii) of~~  
10 ~~this title and by~~ 33 V.S.A. § 1811(f)(2)(B).

11 Sec. 12. 8 V.S.A. § 8083 is amended to read:

12 § 8083. EXTRATERRITORIAL JURISDICTION

13 No group long-term care insurance coverage may be offered to a resident of  
14 this State under a group policy issued in another state to a group described in  
15 subdivision 8082(4)(D) of this title, unless this State or another state having  
16 statutory and regulatory long-term care insurance requirements substantially  
17 similar to those adopted in this State has made a determination that such  
18 requirements have been met. All other jurisdiction shall be pursuant to section  
19 ~~4062~~ 4026 of this title.

1 Sec. 13. 8 V.S.A. § 8094(e) is amended to read:

2 (e) In the event of the death of the insured, this section shall not apply to  
3 the remaining death benefit of a life insurance policy that accelerates benefits  
4 for long-term care. In this situation, the remaining death benefits under these  
5 policies shall be governed by sections 3731 and ~~4065~~ 4029 of this title. In all  
6 other situations, this section shall apply to life insurance policies that  
7 accelerate benefits for long-term care.

8 Sec. 14. 18 V.S.A. § 701 is amended to read:

9 § 701. DEFINITIONS

10 As used in this chapter:

11 \* \* \*

12 (8) “Health ~~benefit~~ insurance plan” ~~shall have~~ has the same meaning as  
13 ~~health~~ major medical insurance plan in ~~8 V.S.A. § 4088h~~ 8 V.S.A. § 4011.

14 \* \* \*

15 Sec. 15. 18 V.S.A. § 706 is amended to read:

16 § 706. HEALTH INSURER PARTICIPATION

17 (a) ~~As provided for in 8 V.S.A. § 4088h~~ set forth in 8 V.S.A. § 4025, health  
18 insurance plans shall be consistent with the Blueprint for Health as determined  
19 by the Commissioner of Financial Regulation.

20 (b) Health insurers shall participate in the Blueprint for Health as a  
21 condition of doing business in this State as provided for in this section and in

1 ~~8 V.S.A. § 4088h~~ 8 V.S.A. § 4025. Under ~~8 V.S.A. § 4088h~~, the  
2 Commissioner of Financial Regulation may exclude or limit the participation  
3 of health insurers offering a stand-alone dental plan or specific disease or other  
4 limited benefit coverage in the Blueprint for Health. Health insurers shall be  
5 exempt from participation if the insurer only offers benefit plans that are paid  
6 directly to the individual insured or the insured's assigned beneficiaries and for  
7 which the amount of the benefit is not based upon potential medical costs or  
8 actual costs incurred.

9 \* \* \*

10 Sec. 16. 18 V.S.A. § 4750 is amended to read:

11 § 4750. DEFINITIONS

12 As used in this chapter:

13 (1) "Health insurance plan" has the same meaning as in ~~8 V.S.A. §~~  
14 ~~4089b~~ 8 V.S.A. § 4011.

15 \* \* \*

16 Sec. 17. 18 V.S.A. § 9361(a) is amended to read:

17 (a) As used in this section, "distant site," "health care provider,"  
18 "originating site," ~~"store and forward,"~~ "store-and-forward," and  
19 "telemedicine" shall have the same meanings as in ~~8 V.S.A. § 4100k~~ 8 V.S.A.  
20 § 4089a.

1 Sec. 18. 18 V.S.A. § 9362(a) is amended to read:

2 (a) As used in this section, ~~“health;~~

3 (1) “Health insurance plan” and “health has the same meaning as in  
4 8 V.S.A. § 4011.

5 (2) “Health care provider” have has the same meaning as in 8 V.S.A.  
6 § 4100l and “telemedicine” 8 V.S.A. § 4098b.

7 (3) “Telemedicine” has the same meaning as in 8 V.S.A. § 4100k  
8 8 V.S.A. § 4098a.

9 Sec. 19. 18 V.S.A. § 9375(b) is amended to read:

10 (b) The Board shall have the following duties:

11 \* \* \*

12 (6) Approve, modify, or disapprove requests for health insurance rates  
13 pursuant to ~~8 V.S.A. § 4062~~ 8 V.S.A. § 4026, taking into consideration the  
14 requirements in the underlying statutes, changes in health care delivery,  
15 changes in payment methods and amounts, protecting insurer solvency, and  
16 other issues at the discretion of the Board.

17 \* \* \*

18 (12) ~~Review data regarding mental health and substance abuse treatment~~  
19 ~~reported to the Department of Financial Regulation pursuant to 8 V.S.A. §~~  
20 ~~4089b(g)(1)(G) and discuss such information, as appropriate, with the Mental~~

1 ~~Health Technical Advisory Group established pursuant to subdivision~~  
2 ~~9374(e)(2) of this title. [Repealed.]~~

3 \* \* \*

4 Sec. 20. 18 V.S.A. § 9377(g)(1) is amended to read:

5 (g)(1) Health insurers shall participate in the development of the payment  
6 reform strategic plan for the pilot projects and in the implementation of the  
7 pilot projects, including providing incentives, fees, or payment methods, as  
8 required in this section. This requirement may be enforced by the Department  
9 of Financial Regulation to the same extent as the requirement to participate in  
10 the Blueprint for Health pursuant to ~~8 V.S.A. § 4088h~~ 8 V.S.A. § 4025.

11 Sec. 21. 18 V.S.A. § 9381(d) is amended to read:

12 (d) A decision of the Board's approving, modifying, or disapproving a  
13 health insurer's proposed rate pursuant to ~~8 V.S.A. § 4062~~ 8 V.S.A. § 4026  
14 shall be considered a final action of the Board and may be appealed to the  
15 Supreme Court pursuant to subsection (b) of this section.

16 Sec. 22. 18 V.S.A. § 9404(d) is amended to read:

17 (d) There is hereby created a special fund to be known as the Green  
18 Mountain Care Board Regulatory and Administrative Fund pursuant to  
19 32 V.S.A. chapter 7, subchapter 5, for the purpose of providing the financial  
20 means for the Green Mountain Care Board to administer its obligations,  
21 responsibilities, and duties as required by law, including pursuant to ~~8 V.S.A.~~

1     ~~§ 4062~~ 8 V.S.A. § 4026, chapters 220 and 221 of this title, and 33 V.S.A.  
2     chapter 18. All fees, fines, penalties, and similar assessments received by the  
3     Board in the administration of its obligations, responsibilities, and duties shall  
4     be credited to the Fund. The Fund may also be used by the Department of  
5     Health to administer its obligations, responsibilities, and duties as required by  
6     chapter 221 of this title.

7     Sec. 23. 18 V.S.A. § 9414a(a) is amended to read:

8         (a) As used in this section:

9                                     \* \* \*

10           (5) “Independent external review” means a review of a health care  
11     decision by an independent review organization pursuant to ~~8 V.S.A. § 4089f~~ 8  
12     V.S.A. § 4063.

13                                     \* \* \*

14     Sec. 24. 18 V.S.A. § 9462 is amended to read:

15     § 9462. QUALITY IMPROVEMENT PROJECTS

16         ~~In addition to reviewing mental health and substance abuse treatment data~~  
17     ~~pursuant to subdivision 9375(b)(12) of this title, the~~ The Green Mountain Care  
18     Board shall consider the results of any quality improvement projects not  
19     otherwise confidential or privileged undertaken by managed care organizations  
20     for mental health and substance abuse care and treatment pursuant to ~~8 V.S.A.~~  
21     ~~§ 4089b(d)(1)(B)(vii) and~~ subsection 9414(i) of this title.

1      Sec. 25. 18 V.S.A. § 9573(a) is amended to read:

2            (a) On or before December 31 of each year, the Green Mountain Care  
3      Board shall review any all-inclusive population-based payment arrangement  
4      between the Department of Vermont Health Access and an accountable care  
5      organization for the following calendar year. The Board's review shall include  
6      the number of attributed lives, eligibility groups, covered services, elements of  
7      the per member, per month payment, and any other nonclaims payments. The  
8      Board's review may include deliberative sessions to the same extent permitted  
9      for insurance rate review under ~~8 V.S.A. § 4062~~ 8 V.S.A. § 4026.

10     Sec. 26. 32 V.S.A. § 1407(b) is amended to read:

11           (b) The State shall bear the costs of forensic medical and psychological  
12      examinations administered to victims of crime committed in this State, in  
13      instances where that examination is requested by a law enforcement officer or  
14      a prosecuting authority of the State or any of its subdivisions and the victim  
15      does not have health coverage or the victim's health coverage does not cover  
16      the entire cost of the examination. The State shall also bear the costs of sexual  
17      assault examinations, as defined in ~~8 V.S.A. § 4089~~ 8 V.S.A. § 4083,  
18      administered to victims in cases of alleged sexual assault where the victim  
19      obtains such an examination prior to receiving such a request if the victim does  
20      not have health coverage or the victim's health coverage does not cover the  
21      entire cost of the examination. If, as a result of a sexual assault examination,



1 the alleged victim has been referred for mental health counseling, the State  
2 shall bear any costs of such examination not covered by the victim's health  
3 coverage. These costs may be paid from the Victims' Compensation Fund  
4 from funds appropriated for that purpose.

5 Sec. 27. 32 V.S.A. § 10401 is amended to read:

6 § 10401. DEFINITIONS

7 As used in this chapter:

8 (1) "Health insurance" means any group or individual health care  
9 benefit policy, contract, or other health benefit plan offered, issued, renewed,  
10 or administered by any health insurer, including any health care benefit plan  
11 offered, issued, renewed, or administered by any health insurance company,  
12 any nonprofit hospital and medical service corporation, any dental service  
13 corporation, or any managed care organization as defined in 18 V.S.A. § 9402.  
14 The term includes comprehensive major medical policies, contracts, or plans;  
15 short-term, limited-duration health insurance policies and contracts as defined  
16 in ~~8 V.S.A. § 4084a~~ 8 V.S.A. § 4053; student health insurance policies; and  
17 Medicare ~~supplemental~~ supplement insurance policies, contracts, or plans, but  
18 does not include Medicaid or any other State health care assistance program in  
19 which claims are financed in whole or in part through a federal program unless  
20 authorized by federal law and approved by the General Assembly. The term  
21 does not include policies issued for specified disease, accident, injury, hospital

1 indemnity, long-term care, disability income, or other limited benefit health  
2 insurance policies, except that any policy providing coverage for dental  
3 services shall be included.

4 \* \* \*

5 Sec. 28. 33 V.S.A. § 1813(a)(2) is amended to read:

6 (2) In its review and approval of premium rates pursuant to ~~8 V.S.A.~~  
7 ~~§ 4062~~ 8 V.S.A. § 4026, the Green Mountain Care Board shall ensure that:

8 \* \* \*

9 Sec. 29. 33 V.S.A. § 1814 is amended to read:

10 § 1814. MAXIMUM OUT-OF-POCKET LIMIT FOR PRESCRIPTION  
11 DRUGS IN BRONZE PLANS

12 (a)(1) Notwithstanding any provision of ~~8 V.S.A. § 4089i~~ 8 V.S.A. § 4092  
13 to the contrary, the Green Mountain Care Board may approve modifications to  
14 the out-of-pocket prescription drug limit established in ~~8 V.S.A. § 4089i~~  
15 8 V.S.A. § 4092 for one or more bronze-level plans, as long as the Board finds  
16 that the offering of such plans will not adversely impact the plan options  
17 available to consumers with high prescription drug needs who benefit from the  
18 out-of-pocket prescription drug limit established in ~~8 V.S.A. § 4089i~~ 8 V.S.A.  
19 § 4092.

20 (2) The Department of Vermont Health Access shall certify at least two  
21 standard bronze-level plans that include the out-of-pocket prescription drug

1 limit established in ~~8 V.S.A. § 4089i~~ 8 V.S.A. § 4092, as long as the plans  
2 comply with federal requirements. Notwithstanding any provision of ~~8 V.S.A.~~  
3 ~~§ 4089i~~ 8 V.S.A. § 4092 to the contrary, the Department may certify one or  
4 more bronze-level qualified health benefit plans with modifications to the out-  
5 of-pocket prescription drug limit established in ~~8 V.S.A. § 4089i~~ 8 V.S.A.  
6 § 4092.

7 (b)(1) For each individual enrolled in a bronze-level qualified health  
8 benefit plan for the previous two plan years who had out-of-pocket prescription  
9 drug expenditures that met the out-of-pocket prescription drug limit established  
10 in ~~8 V.S.A. § 4089i~~ 8 V.S.A. § 4092 for the most recent plan year for which  
11 information is available, the health insurer shall, absent an alternative plan  
12 selection or plan cancellation by the individual, automatically reenroll the  
13 individual in a bronze-level qualified health plan for the forthcoming plan year  
14 with an out-of-pocket prescription drug limit at or below the limit established  
15 in ~~8 V.S.A. § 4089i~~ 8 V.S.A. § 4092.

16 (2) Prior to reenrolling an individual in a plan pursuant to subdivision  
17 (1) of this subsection, the health insurer shall notify the individual of the  
18 insurer's intent to reenroll the individual automatically in a bronze-level  
19 qualified health plan for the forthcoming plan year with an out-of-pocket  
20 prescription drug limit at or below the limit established in ~~8 V.S.A. § 4089i~~  
21 8 V.S.A. § 4092 unless the individual contacts the insurer to select a different

1 plan and of the availability of bronze-level plans with higher out-of-pocket  
2 prescription drug limits. The health insurer shall collaborate with the  
3 Department of Vermont Health Access and the Office of the Health Care  
4 Advocate as to the notification's form and content.

5 Sec. 30. 33 V.S.A. § 4110(a)(6) is amended to read:

6 (6) ~~For purposes of~~ As used in this section, "dependent coverage" shall  
7 ~~have~~ has the same meaning as in ~~8 V.S.A. § 4100b(a)(3)~~ 8 V.S.A. § 4058.

8 Sec. 31. ADDITIONAL CONFORMING REVISIONS

9 When preparing the Vermont Statutes Annotated for publication, the Office  
10 of Legislative Counsel shall update any additional cross-references to statutes  
11 in 8 V.S.A. chapter 107 that use the numbering scheme in effect prior to the  
12 effective date of this act to conform to the new numbering scheme enacted by  
13 this act.

14 \* \* \* Interpretation and Rule Alignment \* \* \*

15 Sec. 32. INTERPRETATION; RULE ALIGNMENT

16 (a) The purpose of this bill is to update and reorganize the health insurance  
17 statutes. It is the intent of the General Assembly that the technical  
18 amendments in this act shall not supersede substantive changes contained in  
19 other bills enacted by the General Assembly during the current biennium.  
20 Where possible, the amendments in this act shall be interpreted to be  
21 supplemental to other amendments made to the sections of 8 V.S.A. chapter

1 107 using the numbering scheme in effect prior to the effective date of this act;  
2 to the extent the provisions conflict, the substantive changes in other acts shall  
3 take precedence over the technical changes in this act. Statutes added to or  
4 amended in 8 V.S.A. chapter 107 that are enacted during the 2025–2026  
5 biennium using the numbering scheme that existed prior to the effective date of  
6 this act shall be codified in the corresponding statutes as renumbered by this  
7 act.

8 (b) Rules adopted and orders, bulletins, forms, and guidance documents  
9 issued by the Department of Financial Regulation, the Green Mountain Care  
10 Board, and other State agencies that refer to statutes in 8 V.S.A. chapter 107  
11 using the numbering that existed prior to the effective date of this act shall  
12 continue to be valid following the effective date of this act until such time as  
13 the relevant documents can be amended or updated to align with the  
14 renumbering of that chapter by this act.

15 \* \* \* Effective Date \* \* \*

16 Sec. 33. EFFECTIVE DATE

17 This act shall take effect on September 1, 2025.