## House Calendar

Wednesday, April 16, 2025

### 99th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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### ORDERS OF THE DAY

#### **ACTION CALENDAR**

### **Favorable with Amendment**

#### S. 18

An act relating to licensure of freestanding birth centers

**Rep. Goldman of Rockingham**, for the Committee on Health Care, recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 53 is added to read:

### CHAPTER 53. BIRTH CENTER LICENSING

### § 2351. DEFINITIONS

As used in this chapter:

- (1) "Birth center" means a facility the primary purposes of which are to provide midwifery care, low-risk deliveries, and newborn care immediately after delivery, for a stay of generally less than 24 hours. The term does not include a facility that is a hospital, is part of a hospital, or is owned by a hospital; a facility that is an ambulatory surgical center; or the residence of the individual giving birth. A birth center may be located on the grounds of a hospital.
- (2) "Certified nurse midwife" means an advanced practice registered nurse licensed in accordance with 26 V.S.A. chapter 28, subchapter 2 who has specialized training in childbirth, newborn care, and reproductive health care services.
- (3) "Change of ownership" means a change in the majority or controlling interest in an established birth center to another person.
- (4) "Corrective action plan" means a written strategy for correcting an issue of partial compliance, deficiency, or violation of this chapter or rules adopted pursuant to this chapter.
- (5) "Licensed maternity care provider" means a licensed provider whose professional scope of practice, as established under Vermont law, includes preconception, prenatal, labor, birth, and postpartum care and early care of a newborn and who may be the primary attendant during the perinatal period.

- (6) "Licensed midwife" means a professional licensed in accordance with 26 V.S.A. chapter 85.
- (7) "Licensed provider" means an individual licensed or certified in Vermont to provide specific health care-related services within a scope of practice defined by licensing statutes and rules, and may include advanced practice registered nurses, including certified nurse midwives; licensed midwives; physician assistants; naturopathic physicians with a childbirth endorsement in accordance with 26 V.S.A. §§ 4122(b) and 4125(b); and physicians.

### § 2352. LICENSE; PROHIBITIONS

- (a) No person shall establish, maintain, or operate a birth center in this State without first obtaining a license for the birth center in accordance with this chapter.
- (b) A birth center may be independently owned and operated by a licensed maternity care provider or any other person who complies with the requirements of this chapter.
- (c) A birth center shall not offer or provide epidural anesthesia or a cesarean delivery.
- (d) No person shall represent itself as a "birth center" or use the term "birth center" in its title or in its advertising, publications, or other form of communication unless the person has been licensed as a birth center in accordance with the provisions of this chapter.
- (e) A license is not transferable or assignable and shall be issued only for the premises and persons named in the application.

### § 2353. APPLICATION; FEE

- (a) An application for licensure of a birth center shall be made to the Department of Health in the manner specified by the Department and shall include all information required by the Department.
- (b)(1) Each application for an initial license, renewal of a license, or a change of ownership shall be accompanied by a fee of \$250.00.
- (2) Fees collected under this section shall be credited to the Hospital Licensing Fees Special Fund and shall be available to the Department of Health to offset the costs of licensing birth centers.

### § 2354. LICENSE REQUIREMENTS

Upon receipt of an application for a license and the licensing fee, the Department of Health shall issue a license if it determines, after an inspection

conducted by the Department or its designee, that the applicant is able to operate a birth center in accordance with rules adopted by the Department.

### § 2355. REVOCATION OF LICENSE; HEARING

The Department of Health, after notice and opportunity for hearing to the applicant or licensee, is authorized to condition, deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this chapter. Such notice shall be served by registered mail or by personal service, shall set forth the reasons for the proposed action, and shall set a date not less than 60 days from the date of the mailing or service on which the applicant or licensee shall be given opportunity for a hearing. After the hearing, or upon default of the applicant or licensee, the Department shall file its findings of fact and conclusions of law. A copy of the findings and decision shall be sent by registered mail or served personally upon the applicant or licensee. The procedure governing hearings authorized by this section shall be set forth in the rules adopted pursuant to section 2359 of this chapter and shall not be subject to the contested case provisions of 3 V.S.A. chapter 25, subchapter 2.

### § 2356. APPEAL

Any applicant or licensee, or the State acting through the Attorney General, aggrieved by the decision of the Department of Health after a hearing may appeal the decision in accordance with section 128 of this title. Pursuant to section 129 of this title, an appeal pursuant to this section shall not stay the effectiveness of an order entered in accordance with section 2355 of this chapter, but any party is permitted to seek a stay order in the Superior Court in which the appeal is being heard.

### § 2357. INSPECTIONS

- (a) The Department of Health or its designee shall make or cause to be made such inspections and investigations as the Department or its designee deems necessary.
- (b) A birth center, including its building and grounds and, in accordance with applicable law, its records, shall be subject to inspection by the Department and its designee at all times.
- (c) If a birth center is found to be out of compliance with any requirement of this chapter or rules adopted pursuant to this chapter, the Department may condition, deny, suspend, revoke, or refuse to renew the birth center's license or may ask the birth center to develop and implement a corrective action plan.

(d) If the Department finds a violation as the result of an inspection or investigation, the Department shall post a report on the Department's website summarizing the violation and any corrective action required.

### § 2358. RECORDS

- (a) Information received by the Department of Health through filed reports, inspections, or as otherwise authorized by law shall:
- (1) not be disclosed publicly in a manner that identifies or may lead to the identification of one or more individuals or birth centers;
- (2) be exempt from public inspection and copying under the Public Records Act; and
- (3) be kept confidential except as it relates to a proceeding regarding licensure of a birth center.
- (b) The provisions of subsection (a) of this section shall not apply to the summary reports of violations required to be posted on the Department's website pursuant to section 2357 of this chapter.

### § 2359. RULES

The Department of Health shall adopt rules in accordance with 3 V.S.A. chapter 25 as needed to carry out the purposes of this chapter. The rules shall be based on the national birth center standards published by the American Association of Birth Centers and shall, at a minimum, include provisions regarding:

- (1) requirements for operating a birth center, including requirements for safety, sanitation, and health;
- (2) obtaining, storing, and dispensing pharmaceuticals consistent with State and federal laws;
- (3) requirements for notice to the Department of Health when there is a change in ownership of a birth center and any additional licensing requirements related to a change in ownership;
- (4) the scope of services that may be provided at a birth center, including risk factors that preclude a patient from receiving labor and delivery services at a birth center;
- (5) appropriate staffing for a birth center, including the types of licensed providers who may practice at a birth center;
  - (6) birth center complaint processes;

- (7) birth center facility, equipment, and supply requirements, including requirements for the maintenance of safety, sanitation, and health;
  - (8) record retention and confidentiality;
  - (9) quality assurance and improvement;
- (10) processes for the development, submission, approval, and implementation of corrective action plans;
- (11) a requirement for written practice guidelines and policies that include procedures for transferring a patient to a hospital if circumstances warrant; and
- (12)(A) requirements for written policies and procedures for collaboration with hospitals, other agencies and facilities, and individuals to provide services to patients as appropriate, including:
  - (i) laboratory and diagnostic services;
  - (ii) childbirth education and parenting education support services;
  - (iii) obstetric consultation services;
  - (iv) pediatric consultation services;
  - (v) transport services;
  - (vi) obstetric and newborn acute care in licensed hospitals; and
  - (vii) home health care services:
- (B) a requirement that the policies and procedures established pursuant to subdivision (A) of this subdivision (12) are provided to the relevant service providers upon request; and
- (C) a requirement that the birth center provide the health record of the patient or the newborn, or both, to the receiving service provider upon referral or transfer, in accordance with applicable privacy laws.

### § 2360. NO EFFECT ON SCOPE OF SERVICES

- (a) Nothing in this chapter or in rules adopted pursuant to this chapter shall be construed to expand or limit the scope of the services that a licensed midwife, certified nurse midwife, or other provider may offer at a birth center or perform in a space that is shared with or adjacent to a birth center.
- (b) A birth center may serve as a location for additional services offered in shared or adjacent spaces, including outpatient gynecologic care, primary care, and education and support services, provided that any licensed provider

providing services in those spaces shall only provide those services that are within the licensed provider's authorized scope of practice.

Sec. 2. 8 V.S.A. § 4099d is amended to read:

### § 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

(a) A health insurance plan or health benefit plan providing maternity benefits shall also provide coverage for services rendered by a midwife licensed pursuant to 26 V.S.A. chapter 85 or an advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28 who is certified as a nurse midwife for services within the licensed midwife's or certified nurse midwife's scope of practice and provided in a hospital, birth center, or other health care facility or at home.

\* \* \*

Sec. 3. 18 V.S.A. § 9435 is amended to read:

§ 9435. EXCLUSIONS

\* \* \*

(i) Excluded from this subchapter are birth centers that are licensed pursuant to chapter 53 of this title or are proposed to be established and licensed pursuant to chapter 53 of this title.

## Sec. 4. AGENCY OF HUMAN SERVICES; MEDICAID; REQUEST FOR FEDERAL APPROVAL

The Agency of Human Services shall seek approval from the Centers for Medicare and Medicaid Services to allow Vermont Medicaid to cover prenatal, maternity, postpartum, and newborn services provided at a licensed birth center and to allow Vermont Medicaid to reimburse separately for birth center services, including birth center facility fees, and for professional services.

### Sec. 5. EFFECTIVE DATES

- (a) Sec. 1 (birth center licensing) shall take effect on January 1, 2027 or the effective date of the birth center rules adopted by the Department of Health, whichever comes first.
  - (b) Sec. 2 (8 V.S.A. § 4099d) shall take effect on January 1, 2027.
  - (c) Sec. 3 (18 V.S.A. § 9435a) shall take effect on July 1, 2025.
- (d) Sec. 4 (Agency of Human Services; Medicaid; request for federal approval) shall take effect on passage, and the Medicaid coverage shall begin on the later of the date of approval or the effective date of the birth center rules adopted by the Department of Health.

(e) This section shall take effect on passage.

(Committee vote: 11-0-0)

**Rep. Branagan of Georgia**, for the Committee on Ways and Means, recommends that the House propose to the Senate that the bill be amended as recommended by the Committee on Health Care.

(Committee Vote: 10-1-0)

**Rep. Yacovone of Morristown**, for the Committee on Appropriations, recommends that the House propose to the Senate that the bill be amended as recommended by the Committee on Health Care.

(Committee Vote: 9-0-2)

S. 28

An act relating to access to certain legally protected health care services

- **Rep. Berbeco of Winooski**, for the Committee on Health Care, recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:
- Sec. 1. 1 V.S.A. § 150 is amended to read:
- § 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

\* \* \*

(b)(1) "Legally protected health care activity" means:

\* \* \*

(4) The protections applicable to persons who engage in "legally protected health care activity" shall also apply to a person who has previously undertaken one or more acts or omissions while in another U.S. jurisdiction to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services that would have been protected by this State if they had been undertaken in this State, provided that the acts or omissions were permissible under the laws of the jurisdiction in which the person was located at the time they were undertaken.

- Sec. 2. 1 V.S.A. § 317(c) is amended to read:
- (c) The following public records are exempt from public inspection and copying:

- (44) Records held by the Office of Professional Regulation, Board of Medical Practice, or another public agency that issues one or more licenses, certificates, or registrations to engage in a State-regulated profession or occupation if the records contain the telephone number, email address, physical address, or mailing address, or a combination of these, of an individual who has applied for or has been granted a license, certificate, or registration to practice a profession or occupation in this State, except that the public agency shall disclose any address that the individual has designated as a public address in the record.
- Sec. 3. 3 V.S.A. § 129a is amended to read:

### § 129a. UNPROFESSIONAL CONDUCT

- (a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:
  - (1) Fraudulent or deceptive procurement or use of a license.
- (2) Advertising, including advertising about health care services, that is intended or has a tendency to deceive or mislead.

\* \* \*

(6) Delegating professional responsibilities, including the delivery of health care services, to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education, or licensing credentials to perform them, or knowingly providing professional supervision or serving as a preceptor to a person who has not been licensed or registered as required by the laws of that person's profession.

\* \* \*

(21) Permitting one's name or license to be used by a person, group, or corporation when not actually in charge of or responsible for, or actively overseeing the professional services provided.

\* \* \*

(f)(1) Health care providers. Notwithstanding subsection (e) of this section or any other law to the contrary, no health care provider who is certified, registered, or licensed in Vermont shall be subject to professional disciplinary

action by a board or the Director, nor shall a board or the Director take adverse action on an application for certification, registration, or licensure of a qualified health care provider, based solely on:

\* \* \*

(2) Definitions. As used in this subsection:

\* \* \*

(B) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a physical or mental health condition, including <u>counseling</u>, procedures, products, devices, and medications.

\* \* \*

Sec. 4. 9 V.S.A. chapter 63, subchapter 11 is amended to read:

Subchapter 11. Pregnancy Services Centers Health Care Services

### § 2491. FINDINGS; LEGISLATIVE INTENT

- (a) Findings. The General Assembly finds that:
- (1) Centers that seek to counsel clients against abortion, often referred to as crisis pregnancy centers or limited-services pregnancy centers, have become common across the country, including in Vermont. Accurate information about the services that a limited-services pregnancy center performs, in addition to forthright acknowledgement of its limitations, is essential to enable individuals in this State to make informed decisions about their care. This includes individuals being informed of whether they are receiving services from a licensed and qualified health care provider at a limited-services pregnancy center, as this allows individuals to determine if they need to seek medical care elsewhere in order to continue or terminate a pregnancy.
- (2) Although some limited-services pregnancy centers openly acknowledge in their advertising, on their websites, and at their facilities that they neither provide abortions nor refer clients to other providers of abortion services, others provide confusing and misleading information to pregnant individuals contemplating abortion by leading those individuals to believe that their facilities offer abortion services and unbiased counseling. Some limited-services pregnancy centers have promoted patently false or biased medical claims about abortion, pregnancy, contraception, and reproductive health care providers.
- (3) False and misleading advertising by centers that do not offer or refer elients for abortion is of special concern to the State because of the time-

sensitive and constitutionally protected nature of the decision to continue or terminate a pregnancy. When a pregnant individual is misled into believing that a center offers services that it does not in fact offer or receives false or misleading information regarding health care options, the individual loses time crucial to the decision whether to terminate a pregnancy and may lose the option to choose a particular method or to terminate a pregnancy at all.

- (4) Telling the truth is how trained health care providers demonstrate respect for patients, foster trust, promote self-determination, and cultivate an environment where best practices in shared decision-making can flourish. Without veracity in information and communication, it is difficult for individuals to make informed, voluntary choices that are essential to one's sense of personal agency and autonomy.
- (5)(2) Advertising strategies and educational information about health care options that lack transparency, use misleading or ambiguous terminology, misrepresent or obfuscate services provided, or provide factually inaccurate information are a form of manipulation that disrespects individuals, undermines trust, broadens health disparity, and can result in patient harm.

### (b) Intent.

- (1) It is the intent of the General Assembly to ensure that the public is provided with accurate, factual information about the types of health care services that are available to pregnant individuals in this State. The General Assembly respects the constitutionally protected right of each individual to personal reproductive autonomy, which includes the right to receive clear, honest, and nonmisleading information about the individual's options and to make informed, voluntary choices after considering all relevant information.
- (2) The General Assembly respects the right of limited-services pregnancy centers to counsel individuals against abortion, and nothing in this subchapter should be construed to regulate, limit, or curtail such advocacy.

### § 2492. DEFINITIONS DEFINITION

As used in this subchapter:

- (1) "Abortion" means any medical treatment intended to induce the termination of, or to terminate, a clinically diagnosable pregnancy except for the purpose of producing a live birth.
- (2) "Client" means an individual who is inquiring about or seeking services at a pregnancy services center.

- (3) "Emergency contraception" means any drug approved by the U.S. Food and Drug Administration as a contraceptive method for use after sexual intercourse, whether provided over the counter or by prescription.
- (4) "Health information" means any oral or written information in any form or medium that relates to health insurance or the past, present, or future physical or mental health or condition of a client.
- (5) "Limited-services pregnancy center" means a pregnancy services center that does not directly provide, or provide referrals to clients for, abortions or emergency contraception.
- (6) "Pregnancy services center" means a facility, including a mobile facility, where the primary purpose is to provide services to individuals who are or may be pregnant and that either offers obstetric ultrasounds, obstetric sonograms, or prenatal care to pregnant individuals or has the appearance of a medical facility. A pregnancy services center has the appearance of a medical facility if two or more of the following factors are present:
- (A) The center offers pregnancy testing or pregnancy diagnosis, or both.
- (B) The center has staff or volunteers who wear medical attire or uniforms.
  - (C) The center contains one or more examination tables.
- (D) The center contains a private or semiprivate room or area containing medical supplies or medical instruments.
- (E) The center has staff or volunteers who collect health information from clients.
- (F) The center is located on the same premises as a State-licensed medical facility or provider or shares facility space with a State-licensed medical provider.
- (7) "Premises" means land and improvements or appurtenances or any part thereof "health care services" means all supplies, care, and services of a medical, dental, behavioral health, mental health, substance use disorder treatment, surgical, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, or supportive nature, including medication.

### § 2493. UNFAIR AND DECEPTIVE ACT

(a) It is an unfair and deceptive act and practice in commerce and a violation of section 2453 of this title for any limited-services pregnancy center person to disseminate or cause to be disseminated to the public any advertising

about the health care services or proposed services performed at that center in this State that is untrue or clearly designed to mislead the public about the nature of the services provided. Advertising includes representations made directly to consumers; marketing practices; communication in any print medium, such as newspapers, magazines, mailers, or handouts; and any broadcast medium, such as television or radio, telephone marketing, or advertising over the Internet internet such as through websites and, web ads advertisements, and social media. For purposes of this chapter, advertising or the provision of services by a limited-services pregnancy center about health care services is an act in commerce.

- (b) Health care providers certified, registered, or licensed under Title 26 of the Vermont Statutes Annotated who are employed by, contracted to provide services for or on behalf of, or volunteer to provide services at a limited-services pregnancy center shall be responsible for conducting and providing health care services, information, and counseling at the center. The failure of a health care professional certified, registered, or licensed under Title 26 of the Vermont Statutes Annotated to conduct or to ensure that health care services, information, and counseling at the limited-services pregnancy services center are conducted in accordance with State law and professional standards of practice may constitute unprofessional conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354. [Repealed.]
- (c) The Attorney General has the same authority to make rules, conduct civil investigations, and bring civil actions with respect to violations of subsection (a) of this section as provided under subchapter 1 of this chapter.

### Sec. 5. 12 V.S.A. § 7306 is amended to read:

### § 7306. NONCOOPERATION

- (a) No public agency or employee, appointee, officer or official, or any other person individual acting on behalf of a public agency may knowingly provide any information or expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any interstate or federal investigation or proceeding seeking to impose civil or criminal liability upon a person an individual or entity for:
- (1) the provision, seeking or receipt of, or inquiring about legally protected health care activity that is legal in this State; or
- (2) assisting any person <u>individual</u> or entity providing, seeking, receiving, or responding to an inquiry about legally protected health care activity that is legal in this State.
  - (b) This section shall not apply to:

- (1) any investigation or proceeding where the conduct subject to potential liability under the investigation or proceeding would be subject to liability under the laws of this State if committed in this State;
- (2) any action taken by the Judicial Branch in judicial proceedings order issued by a Vermont State court or a federal court; or
- (3) a public agency or employee, appointee, officer or official, or any other individual acting on behalf of a public agency who, in the course of normal business, is responding to a warrant or extradition demand on the good faith belief that the warrant or demand is valid in this State.
- Sec. 6. 18 V.S.A. § 1881 is amended to read:

## § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION PROHIBITED

- (a) As used in this section:
- (1) "Business associate" has the same meaning as in 45 C.F.R. § 160.103.
  - (2) "Covered entity" has the same meaning as in 45 C.F.R. § 160.103.
- (3) "Legally protected health care activity" has the same meaning as in 1 V.S.A. § 150.
- (4) "Protected health information" has the same meaning as in 45 C.F.R. § 160.103.
  - (5) "Telehealth" has the same meaning as in 26 V.S.A. § 3052.
- (b) A covered entity or business associate shall not disclose protected health information unless the disclosure is permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- (c)(1) In Notwithstanding any provision of subsection (b) of this section to the contrary, in order to protect patients and providers who engage in legally protected health care activity and except as set forth in in subdivision (2) of this subsection, a covered entity or business associate shall not disclose protected health information that is identifiable or susceptible to reidentification and is related to a legally protected health care activity:
- (A) to any government entity other than the State of Vermont or its political subdivisions or instrumentalities if the covered entity or business associate has reason to believe that the information will be used:

- (i) to conduct a criminal, civil, administrative, or professional disciplinary investigation into any individual for the mere act of seeking, obtaining, providing, or facilitating a legally protected health care activity;
- (ii) to impose criminal, civil, or administrative liability or professional disciplinary action on any individual for the mere act of seeking, obtaining, providing, or facilitating a legally protected health care activity; or
- (iii) to identify any individual for any of the activities described in subdivision (i) or (ii) of this subdivision (A); or
- (B) for use in a civil or criminal action; a proceeding preliminary to a civil or criminal action; or a probate, legislative, or administrative proceeding unless.
- (2) Notwithstanding any provision of subdivision (1) of this subsection to the contrary, a covered entity or business associate may disclose protected health information that is identifiable or susceptible to reidentification and is related to a legally protected health care activity if the disclosure meets one or more of the following conditions:
- (1)(A) The disclosure is authorized by the patient or the patient's conservator, guardian, or other authorized legal representative.
- (2) The disclosure is specifically required by federal law, Vermont law, or rules adopted by the Vermont Supreme Court.
- (3)(B) The disclosure is ordered by a court of competent jurisdiction pursuant to federal law, Vermont law, or rules adopted by the Vermont Supreme Court. An order compelling disclosure under this subdivision (B) shall include the court's determination that good cause exists to require disclosure of the information related to the information will not be used to impose criminal, civil, or administrative liability or professional disciplinary action on any individual based solely on the fact that the person sought, obtained, provided, or facilitated a legally protected health care activity.
- (4)(C) The disclosure is to be made to a person <u>business</u> associate designated by the covered entity or <u>the covered entity's</u> business associate and will be used solely in the defense of the covered entity or <u>the covered entity's</u> business associate against a claim that has been made, or there is a reasonable belief will be made, against the covered entity or <u>the covered entity's</u> business associate in a civil or criminal action; a proceeding preliminary to a civil or criminal action; or a probate, legislative, or administrative proceeding.
- (5)(D) The disclosure is to Vermont's Board of Medical Practice or Office of Professional Regulation, as applicable, in connection with a bona fide investigation in Vermont of a licensed, certified, or registered health care

provider or a bona fide investigation of whether an individual who is not licensed, certified, or registered to practice a health care profession in Vermont engaged in unauthorized practice in this State, whether in person or through telehealth.

- (6)(E) The disclosure is to the Vermont Department of Health or the Vermont Department of Disabilities, Aging, and Independent Living, or both, in connection with a bona fide investigation of a licensed health care facility in Vermont.
- (F) Subject to the limitations set forth in 12 V.S.A. § 7306, the disclosure is required in the ordinary course of business of Vermont's Medicaid program.
- (d) A covered entity or business associate shall not be subject to any civil, criminal, or administrative liability or professional disciplinary action for refusing to disclose protected health information that is identifiable or susceptible to reidentification and is related to a legally protected health care activity, in accordance with subsection (c) of this section.
- Sec. 7. 18 V.S.A. § 4999 is amended to read:

### § 4999. DEFINITIONS

As used in this part:

\* \* \*

(2) "Licensed health care professional," as used in 18 V.S.A. chapter 107, means a physician, a physician assistant, a naturopathic physician, or an advanced practice registered nurse. As used in chapter 107 of this part only, the term also includes a naturopathic physician.

\* \* \*

Sec. 8. 18 V.S.A. § 5200 is amended to read:

### § 5200. DEFINITIONS

As used in this chapter:

- (4) "Licensed health care professional" means a physician, a physician assistant, a naturopathic physician, or an advanced practice registered nurse.
- (5) "Natural organic reduction" has the same meaning as in section 5302 of this title.
- Sec. 9. 18 V.S.A. § 5222 is amended to read:

### § 5222. REPORTS

- (a)(1) The following fetal deaths shall be reported by the hospital, physician licensed health care professional, or funeral director directly to the Commissioner within seven days after delivery on forms prescribed by the Department:
- (1)(A) All fetal deaths of 20 or more weeks of gestation or, if gestational age is unknown, of 400 or more grams, 15 or more ounces, fetal weight shall be reported.
- (2)(B) All therapeutic or induced abortions, as legally authorized to be performed, of any length gestation or weight shall be reported.
- (3)(2) Spontaneous abortions and ectopic pregnancies of less than 20 weeks gestation are not required to be reported.
- (b) The physician licensed health care professional who treats a woman patient as a result of a miscarriage or abortion shall report the fetal death if it is not known to be previously reported under subsection (a) of this section. If there is evidence of violence or other unusual or suspicious circumstances, the medical examiner shall be immediately notified, and he or she the medical examiner shall complete at least the medical items on the report. If a funeral director is to be involved, the physician licensed health care professional may delegate to the funeral director the responsibility for completing items other than those of a medical nature. Similarly, the physician licensed health care professional may delegate the responsibility for completion of nonmedical items to appropriate personnel having access to records containing the information.
- (c) If a fetal death occurs on a moving conveyance, the place of occurrence shall be given as the town or city where removal from the vehicle took place.
- (d) Fetal death reports Reports made pursuant to this section are for statistical purposes only and are not public records. They shall be kept confidential; shall not be disclosed or discoverable in any civil, criminal, administrative, or other proceeding; and shall be destroyed after five two years.
- Sec. 10. 26 V.S.A. § 1354 is amended to read:

### § 1354. UNPROFESSIONAL CONDUCT

(a) <u>Prohibited conduct.</u> The Board shall find that any one of the following, or any combination of the following, whether the conduct at issue was committed within or outside the State, constitutes unprofessional conduct:

(2) all advertising of about health care services or a medical business that is intended or has a tendency to mislead or deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public morals or safety;

\* \* \*

(21) permitting one's name or license to be used by a person, group, or corporation when not actually in charge of, or responsible for, or actively overseeing the treatment given or other health care services provided;

\* \* \*

(29) delegation of professional responsibilities, including delivery of any health care services, to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education, or licensing credentials to perform them;

- (33)(A) providing, prescribing, dispensing, or furnishing medical services or prescription medication or prescription-only devices to a person in response to any communication transmitted or received by computer or other electronic means, when the licensee fails to take the following actions to establish and maintain a proper physician-patient relationship:
- (i) a reasonable effort to verify that the person requesting medication is in fact the patient, and is in fact who the person claims to be;
- (ii) establishment of documented diagnosis through the use of accepted medical practices; and
  - (iii) maintenance of a current medical record;
- (B) for the purposes of this subdivision (33), an electronic, on-line online, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient, except as otherwise provided in subdivision (C)(iv) of this subdivision (33);
- (C) the following would not be in violation of this subdivision (33) if transmitted or received by computer or other electronic means:
  - (i) initial admission orders for newly hospitalized patients;
- (ii) prescribing for a patient of another physician for whom the prescriber has taken the call;

- (iii) prescribing for a patient examined by a licensed advanced practice registered nurse, physician assistant, or other advanced practitioner authorized by law and supported by the physician;
- (iv) in furtherance of 18 V.S.A. chapter 223, prescribing medication for an individual to terminate the individual's pregnancy based on an adaptive questionnaire developed by or in consultation with health care providers with clinically appropriate expertise that allows the licensee to obtain additional medical history and ask follow-up questions as needed;
- (v) continuing medication on a short-term basis for a new patient, prior to the patient's first appointment; or
- (v)(vi) emergency situations where life or health of the patient is in imminent danger;

- (b) <u>Failure to practice competently.</u> The Board may also find that failure to practice competently by reason of any cause on a single occasion or on multiple occasions constitutes unprofessional conduct. Failure to practice competently includes, as determined by the Board:
  - (1) performance of unsafe or unacceptable patient care; or
- (2) failure to conform to the essential standards of acceptable and prevailing practice.
- (c) <u>Burden of proof.</u> The burden of proof in a disciplinary action shall be on the State to show by a preponderance of the evidence that the person has engaged in unprofessional conduct.
- (d)(1) Health care providers. Notwithstanding any other law to the contrary, no health care provider who is certified, registered, or licensed in Vermont shall be subject to professional disciplinary action by the Board, nor shall the Board take adverse action on an application for certification, registration, or licensure of a qualified health care provider, based solely on:
- (A)(1) the health care provider providing or assisting in the provision of legally protected health care activity; or
- (B)(2) a criminal, civil, or disciplinary action in another state against the health care provider that is based solely on the provider providing or assisting in the provision of legally protected health care activity.
  - (2)(e) Definitions. As used in this subsection section:

- (A)(1) "Health care provider" means a person who provides professional health care services to an individual during that individual's medical care, treatment, or confinement.
- (B)(2) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a physical or mental health condition, including counseling, procedures, products, devices, and medications.
- (C)(3) "Legally protected health care activity" has the same meaning as in 1 V.S.A. § 150.
- Sec. 11. 26 V.S.A. § 1615 is amended to read:
- § 1615. ADVANCED PRACTICE REGISTERED NURSES;

### REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) In addition to the provisions of 3 V.S.A. § 129a and section 1582 of this chapter, the Board may deny an application for licensure, renewal, or reinstatement or may revoke, suspend, or otherwise discipline an advanced practice registered nurse upon due notice and opportunity for hearing if the person engages in the following conduct:

\* \* \*

- (6) Providing Except as otherwise provided in subsection (b) of this section, providing, prescribing, dispensing, or furnishing medical services or prescription medication or prescription-only devices to a person in response to any communication transmitted or received by computer or other electronic means when the licensee fails to take the following actions to establish and maintain a proper provider-patient relationship:
- (A) a reasonable effort to verify that the person requesting medication is in fact the patient and is in fact who the person claims to be;
- (B) establishment of documented diagnosis through the use of accepted medical practices; and
  - (C) maintenance of a current medical record.

- (b)(1) For the purposes of subdivision (a)(6) of this section, an electronic, online, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient, except as otherwise provided in subdivision (2)(D) of this subsection.
- (2) The following would not be in violation of subdivision (a)(6) of this section:

- (A) initial admission orders for newly hospitalized patients;
- (B) prescribing for a patient of another provider for whom the prescriber has taken call;
- (C) prescribing for a patient examined by a licensed APRN, physician assistant, or other practitioner authorized by law and supported by the APRN;
- (D) in furtherance of 18 V.S.A. chapter 223, prescribing medication for an individual to terminate the individual's pregnancy based on an adaptive questionnaire developed by or in consultation with health care providers with clinically appropriate expertise that allows the licensee to obtain additional medical history and ask follow-up questions as needed;
- (E) continuing medication on a short-term basis for a new patient prior to the patient's first appointment; or
- (E)(F) emergency situations where the life or health of the patient is in imminent danger.

\* \* \*

Sec. 12. 26 V.S.A. § 1736 is amended to read:

### § 1736. UNPROFESSIONAL CONDUCT

(a) The following conduct and the conduct described in section 1354 of this title by a licensed physician assistant shall constitute unprofessional conduct; when that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of licensure:

\* \* \*

- (2) occupational advertising <u>or advertising about health care services</u> that is intended or has a tendency to <u>mislead or deceive the public</u>;
- (3) exercising undue influence on or taking improper advantage of a person using the individual's services, or promoting the sale of professional goods or services in a manner that exploits a person for the financial gain of the practitioner or of a third party;
- (4) failing to comply with provisions of federal or state statutes or rules governing the profession;
  - (5) conviction of a crime related to the profession; and
  - (6) conduct that evidences unfitness to practice in the profession.

- (d) As used in this section, "health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a physical or mental health condition, including counseling, procedures, products, devices, and medications.
- Sec. 13. 26 V.S.A. § 2024 is added to read:

# § 2024. CONFIDENTIALITY OF PRESCRIBER AND PHARMACIST INFORMATION ON MEDICATIONS FOR LEGALLY PROTECTED HEALTH CARE ACTIVITY

### (a) As used in this section:

- (1) "Gender-affirming health care services" and "reproductive health care services" have the same meanings as in 1 V.S.A. § 150.
- (2) "Noncontrolled medication" means a medication that is not a controlled substance as defined in 21 U.S.C. § 802.
- (b)(1) Upon the request of a prescribing practitioner and to the extent not expressly required under federal law, a pharmacist or other licensed member of the pharmacy staff shall redact or otherwise remove the practitioner's name or initials from a fulfilled prescription for a noncontrolled medication for genderaffirming health care services or reproductive health care services, and from any accompanying printed materials.
- (2) A pharmacist may, or, upon the pharmacist's request, another licensed member of the pharmacy staff shall, redact or otherwise remove the pharmacist's name or initials from a fulfilled prescription for a noncontrolled medication for gender-affirming health care services or reproductive health care services, and from any accompanying printed materials.
- (3) If a prescribing practitioner dispenses medication directly to patients for gender-affirming health care services or reproductive health care services, or both, the practitioner may redact or otherwise remove the practitioner's own name or initials from a fulfilled prescription for a noncontrolled medication for gender-affirming health care services or reproductive health care services, and from any accompanying printed materials.
- (c) Nothing in this chapter or the rules governing the pharmacy profession shall be construed to require a pharmacist or other licensed member of a pharmacy's staff to list the prescribing practitioner's or pharmacist's name or initials on a fulfilled prescription for noncontrolled medication for genderaffirming health care services or reproductive health care services.

(d) A pharmacist or other licensed member of a pharmacy's staff shall be immune from civil, administrative, and criminal liability for failing to redact or remove the name of a prescriber or pharmacist when requested to do so pursuant to subdivision (b)(1) or (2) of this section; provided, however, that this immunity shall not apply to gross negligence, recklessness, or intentional misconduct by a pharmacist or other licensed member of the pharmacy staff.

### Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 8-3-0)

### **NOTICE CALENDAR**

### **Senate Proposal of Amendment**

### H. 243

An act relating to the regulation of business organizations

The Senate proposes to the House to amend the bill as follows:

<u>First</u>: In Sec. 4, 11 V.S.A. chapter 15, in section 1656, by striking out the section heading in its entirety and inserting in lieu thereof a new section heading to read as follows:

### § 1656. SERVICE OF PROCESS; SECRETARY OF STATE AS AGENT

Second: By adding a new section to be Sec. 4a to read as follows:

Sec. 4a. 11 V.S.A. chapter 15, subchapter 2 is amended to read:

Subchapter 2. Administrative Authority

\* \* \*

### § 1657. CERTIFICATE OF GOOD STANDING

Upon request of any person and payment of the applicable fee, the Secretary of State shall issue a certificate of good standing for a business organization that is authorized to do business in this State, and that is currently active and in good standing as of the date the certificate is issued, as reflected in the records of the Secretary.

Third: By adding a new section to be Sec. 7a to read as follows:

Sec. 7a. 11 V.S.A. § 4028 is amended to read:

### § 4028. CERTIFICATE OF EXISTENCE OR AUTHORIZATION CERTIFICATE OF GOOD STANDING

- (a) A person may request the Secretary of State to furnish a certificate of existence for a limited liability company or a certificate of authorization for a foreign limited liability company.
  - (b) A certificate of existence for a limited liability company shall set forth:
    - (1) the company's name;
- (2) that it is duly organized under the laws of this State and the date of organization; and
  - (3) that articles of termination have not been filed.
- (c) A certificate of authorization for a foreign limited liability company shall set forth:
  - (1) the company's name used in this State;
  - (2) that it is authorized to transact business in this State; and
  - (3) that a certificate of cancellation has not been filed.
- (d) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or is authorized to transact business in this State A person may request the Secretary of State to issue a certificate of good standing for a domestic or foreign limited liability company pursuant to section 1657 of this title.

<u>Fourth</u>: By adding a new section to be Sec. 8a to read as follows:

Sec. 8a. 11A V.S.A. § 1.28 is amended to read:

### § 1.28. CERTIFICATE OF GOOD STANDING

- (a) Anyone may apply to the Secretary of State to furnish a certificate of good standing for a domestic corporation or a certificate of authorization for a foreign corporation.
  - (b) A certificate of good standing or authorization sets forth:
- (1) the domestic corporation's corporate name or the foreign corporation's corporate name used in this State;
  - (2) that:
- (A) the domestic corporation is duly incorporated under the law of this state, the date of its incorporation, and the period of its duration if less than perpetual; or

- (B) the foreign corporation is authorized to transact business in this State:
- (3) that all fees and penalties owed to this state under section 1.22 of this title have been paid if:
  - (A) payment is reflected in the records of the Secretary of State; and
- (B) nonpayment affects the existence or authorization of the domestic or foreign corporations;
- (4) that its most recent annual report required by section 16.22 of this title has been delivered to the Secretary of State;
  - (5) that articles of dissolution have not been filed; and
- (6) other facts of records in the office of the Secretary of State that may be requested by the applicant.
- (c) Subject to any qualification stated in the certificate, a certificate of good standing or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in this State A person may request the Secretary of State to issue a certificate of good standing for a domestic or foreign corporation pursuant to 11 V.S.A. § 1657.

Fifth: By adding a new section to be Sec. 15a to read as follows:

Sec. 15a. 11B V.S.A. § 1.28 is amended to read:

### § 1.28. CERTIFICATE OF GOOD STANDING

- (a) Any person may apply to the Secretary of State to furnish a certificate of good standing for a domestic or foreign corporation.
  - (b) The certificate of good standing sets forth:
- (1) the domestic corporation's corporate name or the foreign corporation's corporate name used in this State;
  - (2) that:
- (A) the domestic corporation is duly incorporated under the law of this State, the date of its incorporation, and the period of its duration if less than perpetual; or
- (B) the foreign corporation is authorized to transact business in this State;
- (3) that all fees and penalties owed to this State under section 1.22 of this title have been paid if:

- (A) payment is reflected in the records of the Secretary of State; and
- (B) nonpayment affects the good standing of the domestic or foreign corporation;
- (4) that its most recent biennial report required by section 16.22 of this title has been delivered to the Secretary of State; and
  - (5) that articles of dissolution have not been filed.
- (c) Subject to any qualification stated in the certificate, a certificate of good standing issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in this State.
- (d) Subject to any qualification stated in the certificate, a certificate of good standing issued by the Secretary of State may be taken as prima facie evidence of the facts stated therein A person may request the Secretary of State to issue a certificate of good standing for a domestic or foreign corporation pursuant to 11 V.S.A. § 1657.

<u>Sixth</u>: In Sec. 23, 11C V.S.A. chapter 2, by striking out section 206 in its entirety and inserting in lieu thereof a new section 206 to read as follows:

### § 206. CERTIFICATE OF GOOD STANDING OR AUTHORIZATION

- (a) The Secretary of State, upon request and payment of the required fee, shall furnish any person that requests it a certificate of good standing for a mutual benefit enterprise if the records filed in the Office of the Secretary of State show that the Secretary of State has filed the enterprise's articles of organization, that the enterprise is in good standing, and that the Secretary of State has not filed a statement of termination.
- (b) The Secretary of State, upon request and payment of the required fee, shall furnish to any person that requests it a certificate of authority for a foreign enterprise if the records filed in the Office of the Secretary of State show that the Secretary of State has filed the foreign enterprise's certificate of authority, has not revoked nor has reason to revoke the certificate of authority, and has not filed a notice of cancellation.
- (c) Subject to any exceptions stated in the certificate, a certificate of good standing or authority issued by the Secretary of State establishes conclusively that the mutual benefit enterprise or foreign enterprise is in good standing or is authorized to transact business in this State A person may request the Secretary of State to issue a certificate of good standing for a domestic or foreign enterprise pursuant to 11 V.S.A. § 1657.

<u>Seventh</u>: In Sec. 27, business services and business organizations; study, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Reporting. The Secretary of State shall, based on the task set forth in subsection (a) of this section, submit to the House Committee on Commerce and Economic Development, the House Committee on Ways and Means, the Senate Committee on Economic Development, Housing and General Affairs, and the Senate Committee on Finance an interim report on or before November 15, 2025 and a final report on or before December 1, 2026 including its findings and any proposed legislation for the General Assembly's consideration. The interim report shall provide the General Assembly with any recommended actions to pursue in the 2026 legislative session.

### **For Informational Purposes**

### NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT TO THE CONSTITUTION OF THE STATE OF VERMONT

The Vermont House Committee on General and Housing will hold a public hearing on Tuesday, April 22, 2025, at 1:00 p.m. in Room 10 of the State House on the proposed amendment. Interested parties may attend the hearing in person or virtually.

The Committee will take testimony on Proposition 3, Declaration of Rights; right to collectively bargain. Anyone interested in testifying must sign up in advance of the hearing through the following online form no later than 5 p.m. on Sunday, April 20, 2025. For those planning to testify instructions on how to access and participate in the hearing will be sent once you have signed up for the hearing.

Online form: https://legislature.vermont.gov/prop-3-form

For those not planning to testify, the hearing will be available to watch live on YouTube at the following link.

YouTube livestream:

https://legislature.vermont.gov/committee/streaming/house-general-and-housing

Written testimony is encouraged and can be submitted electronically through email at testimony@leg.state.vt.us or mailed to the House Committee on Housing and General Affairs, c/o Magali Stowell Alemán, 115 State Street, Montpelier, VT 05633. For more information about the format of this event, contact Magali Stowell Alemán at mstowellaleman@leg.state.vt.us.

### **NOTICE OF PUBLIC HEARING**

The Vermont Senate Committee on Government Operations and the Vermont House Committee on Government Operations and Military Affairs will hold a public hearing on Veteran's Affairs on Wednesday, April 30, 2025 from 4:00 P.M. to 5:30 P.M. in Room 11 at the State House.

The hearing will be available to watch live on YouTube at the following link.

YouTube livestream:

https://legislature.vermont.gov/committee/streaming/house-government-operations-and-military-affairs

### **H.C.R. REQUEST DEADLINE**

All requests for a 2025 House Concurrent Resolution should be submitted to Michael Chernick in the Office of Legislative Counsel by noon on **Friday**, **April 25**, **2025**.

### **CROSSOVER DATES**

The Joint Rules Committee established the following crossover dates:

- (1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 14, 2025**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day Committee bills must be voted out of Committee by **Friday, March 14, 2025**.
- (2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday**, **March 21**, **2025**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill ("The Big Bill"), the Transportation Capital bill, the Capital Construction bill, and the Fee/Revenue bills).

### **HOUSE CONCURRENT RESOLUTION (H.C.R.) PROCESS**

Joint Rules 16a–16d provide the procedure for the General Assembly to adopt concurrent resolutions pursuant to the Consent Calendar. Here are the steps for Representatives to introduce an H.C.R. and to have it ceremonially read during a House session:

- 1. Meet with Legislative Counselor Michael Chernick regarding your H.C.R. draft request. Come prepared with an idea and any relevant supporting documents.
- 2. Have a date in mind if you want a ceremonial reading. You should meet with Counselor Chernick at least two weeks prior to the week you want your ceremonial reading to happen.
- 3. Counselor Chernick will draft your H.C.R., and Resolutions Editor and Coordinator Jill Pralle will edit it. Upon completion of this process, a paper or electronic copy will be released to you. If a paper copy is released to you, a sponsor signout sheet will also be included.
- 4. Please submit the sponsor list to Counselor Chernick by paper *or* electronically, but not both.
- 5. The final list of sponsors needs to be submitted to Counselor Chernick <u>not</u> later than 12:00 noon the Thursday of the week <u>prior</u> to the H.C.R.'s appearance on the Consent Calendar.
- 6. The Office of Legislative Counsel will then send your H.C.R. to the House Clerk's Office for incorporation into the Consent Calendar and House Calendar Addendum for the following week.
- 7. The week that your H.C.R. is on the Consent Calendar, any presentation copies that you requested will be mailed or available for pickup on Friday, after the House and Senate adjourn, which is when your H.C.R. is adopted pursuant to Joint Rules.
- 8. Your H.C.R. can be ceremonially read during a House session once it is adopted. If you would like to schedule a ceremonial reading, contact Second Assistant Clerk Courtney Reckord to confirm your requested ceremonial reading date.

### **JOINT FISCAL COMMITTEE NOTICES**

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

- **JFO** #3244: \$2,335,401.00 to the Agency of Human Services, Department of Health from the Substance Abuse and Mental Health Services Administration. Funds support continued crisis counseling assistance and training in response to the July 2024 flood event. [Received February 7, 2025]
- JFO #3245: \$250,000.00 to the Agency of Human Services, Department of Health from the National Association of State Mental Health Program Directors. Funds used to provide trainings for crisis staff and to make improvements to the State's crisis system dispatch platform. [Received February 7, 2025]
- JFO #3246: 125+ acre land donation valued at \$184,830.00 from Pieter Van Schaik of Cavendish, VT to the Agency of Natural Resources, Department of Forests, Parks and Recreation. The acreage will become part of the Lord State Forest. [Received March 24, 2025]
- JFO #3247: \$2,875,419.00 to the Agency of Human Services, Department for Children and Families to support families affected by the July 2024 flood event. The request includes three (3) limited-service positions. Two (2) Emergency Management Specialists to the AHS central office and one (1) Grants and Contract Manager to the Department of Children and Families Positions funded through June 30, 2027. [Received 04/10/2025, expedited review requested 04/10/2025]
- **JFO** #3248: \$35,603.00 to the Vermont Department of Libraries from the Vermont Community Foundation and the dissolution of the VT Public Library Foundation. The grant will provide modest grants to VT libraries with a preference for smaller libraries and for programs and projects that support children and diversity. [Received April 10, 2025]
- **JFO #3249:** \$22.117.00 to the Agency of Human Services, Department of Corrections to ensure compliance with the Prison Rape Elimination Act (PREA). [Received April 10, 2025]