

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill
3 No. 80 entitled “An act relating to the Office of the Health Care Advocate”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

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

8 § 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

9 * * *

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

13 * * *

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

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

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

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

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

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

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

(c) The application process shall be as follows:

* * *

(9)(A) The Office of the Health Care Advocate established under chapter 229 of this title or, in the case of nursing homes, the Long-Term Care Ombudsman’s Office established under 33 V.S.A. § 7502, is authorized but not required to participate in any administrative or judicial review of an application under this subchapter and shall be considered an interested party in such proceedings upon filing a notice of intervention with the Board.

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

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

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

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

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

7 (C) The Office of the Health Care Advocate and the Long-Term Care
8 Ombudsman’s Office shall not further disclose any confidential or proprietary
9 information provided to their respective offices pursuant to this subdivision
10 (9).

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

12 CHAPTER 229. OFFICE OF THE HEALTH CARE ADVOCATE

13 * * *

14 § 9602. OFFICE OF THE HEALTH CARE ADVOCATE; COMPOSITION

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

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

20 ~~(b)~~(c) The Office shall be administered by one or more directors, one of
21 whom shall be the Chief Health Care Advocate, who shall be an individual

1 with expertise and experience in the fields of health care and advocacy. The
2 ~~Advocate~~ director or directors may employ legal counsel, administrative staff,
3 and other employees and contractors as needed to carry out the duties of the
4 Office.

5 § 9603. DUTIES AND AUTHORITY

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

7 (1) Assist ~~health insurance consumers~~ Vermonters with health insurance
8 plan selection by providing information, referrals, and assistance to individuals
9 about means of obtaining and paying for health insurance coverage and
10 services. The Office shall accept referrals from the Vermont Health Benefit
11 Exchange and Exchange navigators created pursuant to 33 V.S.A. chapter 18,
12 subchapter 1, to assist ~~consumers~~ individuals experiencing problems related to
13 the Exchange.

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

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

20 (4) Identify, investigate, and resolve complaints, questions, and inquiries
21 on behalf of individual Vermonters with respect to issues regarding health

1 insurance ~~consumers~~ or access to health care, and assist those ~~consumers~~
2 Vermonters with filing and ~~pursuit of~~ pursuing complaints and appeals.

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

7 (6) Analyze and monitor the development and implementation of
8 federal, State, and local laws, rules, and policies relating to ~~patients and health~~
9 ~~insurance consumers~~ health insurance and health care, with a special focus on
10 patients' rights and eligibility for State and federal health care programs.

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

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

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

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

3 (11) Submit to the Governor; the House Committees on Health Care, on
4 Ways and Means, and on Appropriations; and the Senate Committees on
5 Health and Welfare, on Finance, and on Appropriations, on or before January 4
6 15 of each year, a report on the activities, performance, and fiscal accounts of
7 the Office during the preceding calendar year.

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

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

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

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

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

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

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

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

16 § 9604. DUTIES OF STATE AGENCIES

17 (a) In developing State policy affecting health care access and affordability,
18 It is the intent of the General Assembly that State agencies shall seek input
19 from the Office of the Health Care Advocate when developing or revising
20 significant matters of State policy affecting health care access and

1 **affordability in order to ensure that Vermonters' perspectives are heard**
2 **and considered through the voice of their independent advocate.**

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

8 (1) When appropriate, State agencies shall allow the Office to access
9 confidential or proprietary information that is otherwise exempt from public
10 inspection and copying under the Public Records Act and to participate in
11 meetings, deliberations, and proceedings in which confidential or proprietary
12 information is discussed; provided, however, that nothing in this section shall
13 require a State agency to provide or disclose information that is prohibited
14 from disclosure by State or federal law or that would cause the provider or
15 discloser to violate any statutory or common law privilege.

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

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

1 § 9605. CONFIDENTIALITY

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

10 § 9606. CONFLICTS OF INTEREST

11 (a) The Office of the Health Care Advocate, its employees, and its
12 contractors shall not have any conflict of interest relating to the performance of
13 their responsibilities under this chapter. For the purposes of this chapter, a
14 conflict of interest exists whenever the Office of the Health Care Advocate, its
15 employees, or its contractors or a person affiliated with the Office, its
16 employees, or its contractors:

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

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

