

1 H.95

2 Introduced by Representative Black of Essex

3 Referred to Committee on

4 Date:

5 Subject: Health; health insurance; Vermont Statutes Annotated

6 Statement of purpose of bill as introduced: This bill proposes to update and
7 reorganize the health insurance chapter, 8 V.S.A. chapter 107, including using
8 consistent language and terminology throughout the chapter. The bill would
9 also update cross-references in other statutes as needed.

10 An act relating to updating and reorganizing the health insurance statutes in
11 8 V.S.A. chapter 107

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

13 * * * Repeal of Existing 8 V.S.A. Chapter 107 * * *

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

15 8 V.S.A. chapter 107 (health insurance) is repealed.

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

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

18 CHAPTER 107. HEALTH INSURANCE

19 Subchapter 1. General Provisions

1 § 4011. DEFINITIONS

2 As used in this chapter:

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

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

8 (3) “Health insurance plan” means a policy or contract issued by a
9 health insurer, including the health benefit plan or plans offered by the State of
10 Vermont to its employees and any health benefit plan offered by any agency or
11 instrumentality of the State to its employees. Unless otherwise specified,
12 “health insurance” does not include Vermont Medicaid.

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

19 (5) “Major medical insurance” means a comprehensive health insurance
20 plan that is not specific disease, accident, hospital indemnity, dental care,
21 vision care, disability income, long-term care, Medicare supplement insurance,

1 or other limited-benefit coverage. The term does not include short-term,
2 limited-duration health insurance coverage or a plan under which benefits are
3 paid directly to a covered individual or the individual's assigns and for which
4 the amount of the benefit is not based on potential medical costs or on actual
5 costs incurred.

6 § 4012. COMPLIANCE WITH FEDERAL LAW

7 (a) Except as otherwise provided in this title, health insurers, hospital and
8 medical service corporations, and health maintenance organizations that issue,
9 sell, renew, or offer health insurance plans in Vermont shall comply with the
10 requirements of the Health Insurance Portability and Accountability Act of
11 1996, as amended from time to time (42 U.S.C. Chapter 6A, Subchapter
12 XXV), and the Patient Protection and Affordable Care Act of 2010, Pub. L.
13 No. 111-148, as amended by the Health Care and Education Reconciliation Act
14 of 2010, Pub. L. No. 111-152. The Commissioner shall enforce such
15 requirements pursuant to the Commissioner's authority under this title.

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

20 (2) The Commissioner shall enforce the requirements of the No
21 Surprises Act as they apply to health insurers, hospital and medical service

1 corporations, health maintenance organizations, and health care providers, to
2 the extent permitted under federal law, pursuant to the Commissioner's
3 authority under this title. The Commissioner may also refer cases of
4 noncompliance to the U.S. Department of Health and Human Services under
5 the terms of a collaborative enforcement agreement, or to the Office of the
6 Vermont Attorney General.

7 § 4013. DISCRIMINATION PROHIBITED

8 No health insurer shall make or permit any unfair discrimination between
9 individuals of substantially the same hazard in the amount of premium rates
10 charged for any health insurance plan or in the benefits payable under the plan;
11 provided, however, that this section shall not be construed to prohibit different
12 premium rates, different benefits, or different underwriting procedure for
13 individuals insured under group, family expense, or blanket plans of insurance.

14 § 4014. ADVERTISING PRACTICES

15 (a) No company doing business in this State, and no insurance agent or
16 broker, shall use in connection with the solicitation of health insurance or
17 pharmacy benefit management any advertising copy or advertising practice or
18 any plan of solicitation that is materially misleading or deceptive. An
19 advertising copy or advertising practice or plan of solicitation shall be
20 considered to be materially misleading or deceptive if by implication or
21 otherwise it transmits information in such manner or of such substance that a

1 prospective applicant for health insurance may be misled by it to the
2 applicant's material damage.

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

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

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

15 § 4015. PENALTIES FOR VIOLATIONS

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

1 § 4016. APPEAL

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

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

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

13 § 4017. EXEMPTION FROM ATTACHMENT AND TRUSTEE PROCESS

14 So much of any benefits under all policies of health insurance as does not
15 exceed \$200.00 for each month during any period of disability covered by the
16 policy shall not be liable to attachment, trustee process, or other process, or to
17 be seized, taken, appropriated, or applied by any legal or equitable process or
18 by operation of law, either before or after payment of such benefits, to pay any
19 debt or liabilities of the person insured under the policy. However, this
20 exemption shall not apply where an action is brought to recover for necessities
21 contracted for during the period of disability and the writ or bill of complaint

1 contains a statement to that effect. When a policy provides for a lump sum
2 payment because of a dismemberment or other loss insured, the payment shall
3 be exempt from execution of the covered individual's creditors.

4 § 4018. THIRD-PARTY OWNERSHIP

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

10 § 4019. NOTICE AS WAIVER

11 A health insurer shall not be deemed to have waived any rights to defend a
12 claim under a health insurance plan based solely on the health insurer's
13 acknowledgement of receipt of notice under the plan, furnishing or accepting
14 forms for filing proof of loss under the plan, or investigating any claim of loss
15 under the plan.

16 § 4020. AGE LIMITS

17 (a) If a health insurance plan contains a provision establishing, as an age
18 limit or otherwise, a date after which the coverage provided by the plan will
19 not be effective, and if that date falls within a period for which the health
20 insurer has accepted a premium or if the health insurer accepts a premium after
21 that date, the coverage provided by the plan shall continue in force subject to

1 any right of cancellation until the end of the period for which a premium has
2 been accepted.

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

10 § 4021. TERMINATION OF COVERAGE

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

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

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

20 (2) If the issuer of a plan described subdivision (1) of this subsection does
21 not receive payment by the due date, the issuer shall send a termination notice

1 to the policyholder at least 21 days prior to termination notifying the
2 policyholder that the issuer may terminate the plan if payment is not received
3 by the termination date.

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

7 (b) For all health insurance policies other than major medical insurance
8 policies, a health insurer shall notify a policyholder of any premium payment
9 due on a policy at least 21 days before the due date. If a health insurer does
10 not receive payment by the due date, the health insurer shall send a termination
11 notice to the policyholder notifying the policyholder that the health insurer will
12 terminate the policy effective on the due date if payment is not received within
13 14 days from the date of mailing of the termination notice. If a health insurer
14 does not receive payment within 14 days from the date of mailing of the
15 termination notice, the health insurer may cancel coverage effective on the due
16 date.

17 § 4022. REBATES AND COMMISSIONS PROHIBITED FOR NONGROUP
18 AND SMALL GROUP POLICIES AND PLANS OFFERED
19 THROUGH THE VERMONT HEALTH BENEFIT EXCHANGE

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

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

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

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

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

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

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

16 (b) No person insured under a health insurance plan issued pursuant to 33
17 V.S.A. § 1811 or party or applicant for such plan shall directly or indirectly
18 receive or accept or agree to receive or accept any rebate of premium or of any
19 part of the premium, or any favor or advantage, or share in any benefit to
20 accrue under any health insurance plan issued pursuant 33 V.S.A. § 1811, or

1 any valuable consideration or inducement, that is not specified in the health
2 insurance plan.

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

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

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

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

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

1 (2) Nothing in this subsection shall be construed to prohibit the Vermont
2 Health Benefit Exchange established in 33 V.S.A. chapter 18, subchapter 1
3 from structuring compensation for agents or brokers in the form of an
4 additional commission, fee, or other compensation outside insurance rates or
5 from compensating agents, brokers, or other individuals through the
6 procedures and payment mechanisms established pursuant to 33 V.S.A.
7 § 1805(17).

8 § 4022a. REBATES PROHIBITED FOR GROUP INSURANCE POLICIES

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

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

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

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

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

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

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

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

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

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

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

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

6 (e) A health insurer that pays a commission, fee, or other compensation,
7 directly or indirectly, to a licensed or unlicensed agent, broker, or other
8 individual other than a bona fide employee of the health insurer in connection
9 with the sale of a group insurance policy shall clearly disclose to the purchaser
10 of the policy the amount of any such commission, fee, or compensation paid or
11 to be paid.

12 § 4023. PROVISIONS APPLYING TO POLICIES DELIVERED IN
13 ANOTHER STATE

14 If any policy is issued by a health insurer domiciled in this State for
15 delivery to a person residing in another state, and if the official having
16 responsibility for the administration of the insurance laws of the other state
17 informs the Commissioner that the policy is not subject to approval or
18 disapproval by the official, the Commissioner may issue an order requiring that
19 the policy meet the standards set forth in sections 4029, 4030, and 4031 of this
20 title.

1 § 4024. COORDINATION OF INSURANCE COVERAGE WITH
2 MEDICAID AND COMPLIANCE WITH MEDICAID RECOVERY
3 PROVISIONS

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

9 (b) A health insurer that issues, sells, renews, or offers health insurance
10 coverage in Vermont or who is required to be licensed or registered with the
11 Department shall comply with the requirements of 33 V.S.A. §§ 1907, 1908,
12 1909, and 1910. The Commissioner shall enforce such requirements pursuant
13 to the Commissioner's authority under this title.

14 § 4025. HEALTH INSURANCE AND THE BLUEPRINT FOR HEALTH

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

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

1 Subchapter 2. Policy Forms and Filing Requirements

2 § 4026. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

3 (a)(1) No policy of health insurance or certificate under a policy filed by a
4 health insurer and not exempted by subdivision 3368(a)(4) of this title shall be
5 delivered or issued for delivery in this State, nor shall any endorsement, rider,
6 or application that becomes a part of any such policy be used, until a copy of
7 the form and of the rules for the classification of risks has been filed with the
8 Department of Financial Regulation and a copy of the premium rates has been
9 filed with the Green Mountain Care Board; and the Green Mountain Care
10 Board has issued a decision approving, modifying, or disapproving the
11 proposed rate.

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

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

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

7 (b)(1) In conjunction with a rate filing required by subsection (a) of this
8 section, a health insurer shall file a plain language summary of the proposed
9 rate. All summaries shall include a brief justification of any rate increase
10 requested, the information that the Secretary of the U.S. Department of Health
11 and Human Services (HHS) requires for rate increases over 10 percent, and
12 any other information required by the Board. The plain language summary
13 shall be in the format required by the Secretary of HHS pursuant to the Patient
14 Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, as amended
15 by the Health Care and Education Reconciliation Act of 2010, Pub. L. No.
16 111-152, and shall include notification of the public comment period
17 established in subsection (c) of this section. In addition, the insurer shall post
18 the summaries on its website.

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

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

4 (I) the percentage of the premium rate attributable to
5 prescription drug costs for the prior year for each category of prescription
6 drugs;

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

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

13 (ii) the specialty tier formulary list.

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

18 (C) The insurer shall include information on its use of a pharmacy
19 benefit manager, if any, including which components of the prescription drug
20 coverage described in subdivisions (A) and (B) of this subdivision (2) are

1 managed by the pharmacy benefit manager, as well as the name of the
2 pharmacy benefit manager or managers used.

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

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

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

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

20 (2)(A) The Board shall post the rate filings pursuant to subsection (a) of
21 this section and summaries pursuant to subsection (b) of this section on the

1 Board's website within five calendar days following filing. The Board shall
2 also establish a mechanism by which members of the public may request to be
3 notified automatically each time a proposed rate is filed with the Board.

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

12 (3)(A) In addition to the public comment provisions set forth in this
13 subsection, the Office of the Health Care Advocate established in 18 V.S.A.
14 chapter 229, acting on behalf of health insurance consumers in this State, may,
15 within 30 calendar days after the Board receives a health insurer's rate request
16 pursuant to this section, submit to the Board, in writing, suggested questions
17 regarding the filing for the Board to provide to its contracting actuary, if any.

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

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

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

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

11 (B) all questions the Board, the Board's contracting actuary, if any,
12 or the Department poses to the insurer and the insurer's responses to those
13 questions.

14 (e) Within the time period set forth in subdivision (a)(2)(A) of this section,
15 the Board shall:

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

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

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

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

3 (3) issue its decision in writing.

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

6 (2) Rates shall take effect on the date specified in the insurer’s rate
7 filing.

8 (3) If the Board has not issued its decision by the effective date specified
9 in the insurer’s rate filing, the insurer shall notify its policyholders of its
10 pending rate request and of the effective date proposed by the insurer in its rate
11 filing.

12 (g) A health insurer, the Office of the Health Care Advocate, and any
13 member of the public with party status, as defined by the Board by rule, may
14 appeal a decision of the Board approving, modifying, or disapproving the
15 insurer’s proposed rate to the Vermont Supreme Court.

16 (h)(1) The authority of the Board under this section shall apply only to the
17 rate review process for policies for major medical insurance coverage and shall
18 not apply to the policy forms for major medical insurance coverage or to the
19 rate and policy form review process for policies for specific disease, accident,
20 injury, hospital indemnity, dental care, vision care, disability income, long-
21 term care, student health insurance coverage, Medicare supplement insurance

1 coverage, or other limited benefit coverage; to short-term, limited-duration
2 health insurance coverage; or to benefit plans that are paid directly to an
3 individual insured or to the individual's assigns and for which the amount of
4 the benefit is not based on potential medical costs or actual costs incurred.
5 Premium rates and rules for the classification of risk for Medicare supplement
6 insurance policies shall be governed by section 4051 of this title.

7 (2) The policy forms for major medical insurance coverage, as well as
8 the policy forms, premium rates, and rules for the classification of risk for the
9 other lines of insurance described in subdivision (1) of this subsection shall be
10 reviewed and approved or disapproved by the Commissioner. In making a
11 determination, the Commissioner shall consider whether a policy form,
12 premium rate, or rule is affordable and is not unjust, unfair, inequitable,
13 misleading, or contrary to the laws of this State; and, for a policy form for
14 major medical insurance coverage, whether it ensures equal access to
15 appropriate mental health care in a manner equivalent to other aspects of health
16 care as part of an integrated, holistic system of care. The Commissioner shall
17 make a determination within 30 days after the date the insurer filed the policy
18 form, premium rate, or rule with the Department. At the expiration of the 30-
19 day period, the form, premium rate, or rule shall be deemed approved unless
20 prior to then it has been affirmatively approved or disapproved by the
21 Commissioner or found to be incomplete. The Commissioner shall notify a

1 health insurer in writing if the insurer files any form, premium rate, or rule
2 containing a provision that does not meet the standards expressed in this
3 subsection. In such notice, the Commissioner shall state that a hearing will be
4 granted within 20 days upon the insurer's written request.

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

10 § 4027. FILING FEES

11 Each filing of a policy, contract, or document form or premium rates or
12 rules, submitted pursuant to section 4026 of this title, shall be accompanied by
13 payment to the Commissioner or the Green Mountain Care Board, as
14 appropriate, of a nonrefundable fee of \$150.00.

15 § 4028. FORM AND CONTENTS OF POLICY

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

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

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

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

9 (4) The style, arrangement, and overall appearance of the policy give no
10 undue prominence to any portion of the text, and every printed portion of the
11 text of the policy and of any endorsements or attached papers is plainly printed
12 in light-faced type of a style in general use, the size of which shall be uniform
13 and not less than 10-point with a lowercase unspaced alphabet length not less
14 than 120-point. As used in this subdivision, the “text” includes all printed
15 matter except the name and address of the insurer; the name or title of the
16 policy; the brief description, if any; and the captions and subcaptions).

17 (5) The exceptions and reductions of indemnity are set forth in the
18 policy and, except those that are set forth in sections 4029 and 4030 of this
19 title, are printed, at the insurer’s option, either with the benefit provision to
20 which they apply or under an appropriate caption such as “EXCEPTIONS,” or
21 “EXCEPTIONS AND REDUCTIONS”; provided, however, that if an

1 exception or reduction specifically applies only to a particular benefit of the
2 policy, the statement of the exception or reduction shall be included with the
3 benefit provision to which it applies.

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

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

11 (8) Either prominently printed on or attached to the first page of the
12 policy is a notice to the effect that during a period of 30 days following the
13 date the policy is delivered to persons eligible for Medicare by reason of age,
14 and 10 days following the date of delivery to all other persons, the policy may
15 be surrendered to the insurer together with a written request for cancellation of
16 the policy, and that in such event, the insurer will refund any premium paid,
17 including any policy fees or other charges; provided, however, that this
18 subdivision shall not apply to single premium nonrenewable policies insuring
19 against accident only or medical costs or accidental bodily injury only.

1 § 4029. REQUIRED STANDARD POLICY PROVISIONS

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

12 (1) ENTIRE CONTRACT; CHANGES: This policy, including the
13 endorsements and the attached papers, if any, constitutes the entire contract of
14 insurance. No change in this policy shall be valid until approved by an
15 executive officer of the insurer and unless such approval be endorsed hereon or
16 attached hereto. No agent has authority to change this policy or to waive any
17 of its provisions.

18 (2) TIME LIMIT ON CERTAIN DEFENSES: (a) After three years
19 from the date of issue of this policy no misstatements, except fraudulent
20 misstatements, made by the applicant in the application for such policy, shall
21 be used to void the policy or to deny a claim for loss incurred or disability (as

1 defined in the policy) commencing after the expiration of such three year
2 period.

3 After this policy has been in force for a period of three years during the
4 lifetime of the insured (excluding any period during which the insured is
5 disabled), it shall become incontestable as to the statements contained in the
6 application.)

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

12 (3) GRACE PERIOD: A grace period of . . . (insert a number not less
13 than “7” for weekly premium policies, “10” for monthly premium policies and
14 “31” for all other policies) days will be granted for the payment of each
15 premium falling due after the first premium, during which grace period the
16 policy shall continue in force.

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

19 subject to the right of the insurer to cancel in accordance with the
20 cancellation provision hereof,

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

3 Unless not less than five days prior to the premium due date the insurer has
4 delivered to the insured or has mailed to his or her last address as shown by the
5 records of the insurer written notice of its intention not to renew this policy
6 beyond the period for which the premium has been accepted.)

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

1 any provisions endorsed hereon or attached hereto in connection with the
2 reinstatement. Any premium accepted in connection with a reinstatement shall
3 be applied to a period for which premium has not been previously paid, but not
4 to any period more than sixty days prior to the date of reinstatement.

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

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

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

19 Subject to the qualifications set forth below, if the insured suffers loss of
20 time on account of disability for which indemnity may be payable for at least
21 two years, he or she shall, at least once in every six months after having given

1 notice of claim, give to the insurer notice of continuance of said disability,
2 except in the event of legal incapacity. The period of six months following any
3 filing of proof by the insured or any payment by the insurer on account of such
4 claim or any denial of liability in whole or in part by the insurer shall be
5 excluded in applying this provision. Delay in the giving of such notice shall
6 not impair the insured's right to any indemnity which would otherwise have
7 accrued during the period of six months preceding the date on which such
8 notice is actually given.)

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

16 (7) PROOFS OF LOSS: Written proof of loss must be furnished to the
17 insurer at its said office in case of claim for loss for which this policy provides
18 any periodic payment contingent upon continuing loss within 90 days after the
19 termination of the period for which the insurer is liable and in case of claim for
20 any other loss within 90 days after the date of such loss. Failure to furnish
21 such proof within the time required shall not invalidate nor reduce any claim if

1 it was not reasonably possible to give proof within such time, provided such
2 proof is furnished as soon as reasonably possible and in no event, except in the
3 absence of legal capacity, later than one year from the time proof is otherwise
4 required.

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

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

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

3 If any indemnity of this policy shall be payable to the estate of the insured,
4 or to an insured or beneficiary who is a minor or otherwise not competent to
5 give a valid release, the insurer may pay such indemnity, up to an amount not
6 exceeding \$. (insert an amount which shall not exceed \$1,000.00), to any
7 relative by blood or connection by civil marriage of the insured or beneficiary
8 who is deemed by the insurer to be equitably entitled thereto. Any payment
9 made by the insurer in good faith pursuant to this provision shall fully
10 discharge the insurer to the extent of such payment.

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

18 (10) PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its
19 own expense shall have the right and the opportunity to examine the person of
20 the insured when and as often as it may reasonably require during the

1 pendency of a claim hereunder and to make an autopsy in case of death where
2 it is not forbidden by law.

3 (11) LEGAL ACTIONS: No action at law or in equity shall be brought to
4 recover on this policy prior to the expiration of 60 days after written proof of
5 loss has been furnished in accordance with the requirements of this policy. No
6 such action shall be brought after the expiration of three years after the time
7 written proof of loss is required to be furnished.

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

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

15 § 4030. OPTIONAL STANDARD POLICY PROVISIONS

16 Except as provided in section 4031 of this title, no health insurance policy
17 delivered or issued for delivery to any person in this State shall contain
18 provisions respecting the matters set forth in this section unless the provisions
19 use the language set forth in this section; provided, however, that a health
20 insurer may, at its option, substitute different language approved by the
21 Commissioner for one or more provisions, provided the substituted language is

1 not less favorable in any respect to the insured or covered individual than the
2 language used in this section. Any provision set forth in this section that is
3 contained in the policy shall be preceded individually by the appropriate
4 caption appearing in this section or, at the option of the health insurer, by such
5 appropriate captions or subcaptions as the Commissioner may approve:

6 (1) CHANGE OF OCCUPATION: If the insured be injured or contract
7 sickness after having changed his or her occupation to one classified by the
8 insurer as more hazardous than that stated in this policy or while doing for
9 compensation anything pertaining to an occupation so classified, the insurer
10 will pay only such portion of the indemnities provided in this policy as the
11 premium paid would have purchased at the rates and within the limits fixed by
12 the insurer for such more hazardous occupation. If the insured changes his or
13 her occupation to one classified by the insurer as less hazardous than that
14 stated in this policy, the insurer, upon receipt of proof of such change of
15 occupation, will reduce the premium rate accordingly, and will return the
16 excess pro rata unearned premium from the date of change of occupation or
17 from the policy anniversary date immediately preceding receipt of such proof,
18 whichever is the more recent. In applying this provision, the classification of
19 occupational risk and the premium rates shall be such as have been last filed by
20 the insurer prior to the occurrence of the loss for which the insurer is liable or
21 prior to date of proof of change in occupation with the state official having

1 supervision of insurance in the state where the insured resided at the time this
2 policy was issued; but if such filing was not required, then the classification of
3 occupational risk and the premium rates shall be those last made effective by
4 the insurer in such state prior to the occurrence of the loss or prior to the date
5 of proof of change in occupation.

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

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

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

20 (4) INSURANCE WITH OTHER INSURERS: If there be other valid
21 coverage, not with this insurer, providing benefits for the same loss on a

1 provision of service basis or on an expense incurred basis and of which this
2 insurer has not been given written notice prior to the occurrence or
3 commencement of loss, the only liability under any expense incurred coverage
4 of this policy shall be for such proportion of the loss as the amount which
5 would otherwise have been payable hereunder plus the total of the like
6 amounts under all such other valid coverages for the same loss of which this
7 insurer had notice bears to the total like amounts under all valid coverages for
8 such loss, and for the return of such portion of the premiums paid as shall
9 exceed the pro rata portion for the amount so determined. For the purpose of
10 applying this provision when other coverage is on a provision of service basis,
11 the “like amount” of such other coverage shall be taken as the amount which
12 the services rendered would have cost in the absence of such coverage.

13 (If the foregoing policy provision is included in a policy which also
14 contains the next following policy provision there shall be added to the caption
15 of the foregoing provision the phrase “—EXPENSE INCURRED
16 BENEFITS.” The insurer may, at its option, include in this provision a
17 definition of “other valid coverage,” approved as to form by the
18 Commissioner, which definition shall be limited in subject matter to coverage
19 provided by organizations subject to regulation by insurance law or by
20 insurance authorities of this or any other state of the United States or any
21 province of Canada, and by hospital or medical service organizations, and to

1 any other coverage the inclusion of which may be approved by the
2 Commissioner. In the absence of such definition such term shall not include
3 group insurance, automobile medical payments insurance, or coverage
4 provided by hospital or medical service organizations or by union welfare
5 plans or employer or employee benefit organizations. For the purpose of
6 applying the foregoing policy provision with respect to any insured, any
7 amount of benefit provided for such insured pursuant to any compulsory
8 benefit statute (including any workers' compensation or employer's liability
9 statute) whether provided by a governmental agency or otherwise shall in all
10 cases be deemed to be "other valid coverage" of which the insurer has had
11 notice. In applying the foregoing policy provision no third party liability
12 coverage shall be included as "other valid coverage.")

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

1 of such portion of the premium paid as shall exceed the pro rata portion for the
2 indemnities thus determined.

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

1 (6) RELATION OF EARNINGS TO INSURANCE: If the total monthly
2 amount of loss of time benefits promised for the same loss under all valid loss
3 of time coverage upon the insured, whether payable on a weekly or monthly
4 basis, shall exceed the monthly earnings of the insured at the time disability
5 commenced or his or her average monthly earnings for the period of two years
6 immediately preceding a disability for which claim is made, whichever is the
7 greater, the insurer will be liable only for such proportionate amount of such
8 benefits under this policy as the amount of such monthly earnings or such
9 average monthly earnings of the insured bears to the total amount of monthly
10 benefits for the same loss under all such coverage upon the insured at the time
11 such disability commences and for the return of such part of the premiums paid
12 during such two years as shall exceed the pro rata amount of the premiums for
13 the benefits actually paid hereunder; but this shall not operate to reduce the
14 total monthly amount of benefits payable under all such coverage upon the
15 insured below the sum of \$200.00 or the sum of the monthly benefits specified
16 in such coverages, whichever is the lesser, nor shall it operate to reduce
17 benefits other than those payable for loss of time.

18 (The foregoing policy provision may be inserted only in a policy which
19 the insured has the right to continue in force subject to its terms by the timely
20 payment of premiums (1) until at least age 50; or (2) in the case of a policy
21 issued after age 44, for at least five years from its date of issue. The insurer

1 may, at its option, include in this provision a definition of “valid loss of time
2 coverage,” approved as to form by the Commissioner, which definition shall be
3 limited in subject matter to coverage provided by governmental agencies or by
4 organizations subject to regulation by insurance law or by insurance authorities
5 of this or any other state of the United States or any province of Canada, or to
6 any other coverage the inclusion of which may be approved by the
7 Commissioner or any combination of such coverages. In the absence of such
8 definition such term shall not include any coverage provided for such insured
9 pursuant to any compulsory benefit statute (including any workers’
10 compensation or employer’s liability statute), or benefits provided by union
11 welfare plans or by employer or employee benefit organizations.)

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

15 (8) CANCELLATION: The insurer may cancel this policy at any time by
16 written notice delivered to the insured, or mailed to his or her last address as
17 shown by the records of the insurer, stating when, not less than five days
18 thereafter, such cancellation shall be effective; and after the policy has been
19 continued beyond its original term the insured may cancel this policy at any
20 time by written notice delivered or mailed to the insurer, effective upon receipt
21 or on such later date as may be specified in such notice. In the event of

1 cancellation, the insurer will return promptly the unearned portion of any
2 premium paid. If the insured cancels, the earned premium shall be computed
3 by the use of the short-rate table last filed with the state official having
4 supervision of insurance in the state where the insured resided when the policy
5 was issued. If the insurer cancels, the earned premium shall be computed pro
6 rata. Cancellation shall be without prejudice to any claim originating prior to
7 the effective date of cancellation.

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

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

16 § 4031. OMISSION OF INAPPLICABLE OR INCONSISTENT

17 STANDARD PROVISIONS

18 If any provision of sections 4029 and 4030 of this title is in whole or in part
19 inapplicable to or inconsistent with the coverage provided by a particular form
20 of policy, the health insurer, with the approval of the Commissioner, shall omit
21 from such policy any inapplicable provision or part of a provision, and shall

1 modify any inconsistent provision or part of the provision in such manner as to
2 make the provision as contained in the policy consistent with the coverage
3 provided by the policy.

4 § 4032. ORDER OF STANDARD POLICY PROVISIONS

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

13 § 4033. DISCRETIONARY CLAUSES PROHIBITED

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

21 (b) As used in this section:

1 (1) “Disability income protection coverage” means a policy, contract,
2 certificate, or agreement that provides for weekly, monthly, or other periodic
3 payments for a specified period during the continuance of disability resulting
4 from illness, injury, or a combination of illness and injury.

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

9 (3) “Life insurance” means a policy, contract, certificate, or agreement
10 that provides life insurance as defined in subdivision 3301(a)(1) of this title.

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

18 (d) No policy, contract, certificate, or agreement offered or issued in this
19 State providing for disability income protection coverage may contain a
20 provision purporting to reserve discretion to the insurer to interpret the terms
21 of the contract or to provide standards of interpretation or review that are

1 inconsistent with the laws of this State, and any such provision in a policy,
2 contract, certificate, or agreement shall be null and void.

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

9 § 4034. REQUIREMENTS OF OTHER JURISDICTIONS

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

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

18 § 4035. POLICIES NOT AFFECTED

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

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

3 (2) any policy or contract of reinsurance;

4 (3) any blanket or group policy of insurance enumerated in sections
5 4041–4043 and 4052 of this title, except as otherwise provided in those
6 sections; or

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

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

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

16 § 4036. NONCONFORMING POLICIES

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

1 (b) A policy delivered or issued for delivery to any person in this State in
2 violation of sections 4029 and 4030 of this title shall be held valid but shall be
3 construed as provided in this chapter. When any provision in a policy
4 regulated by sections 4029 and 4030 is in conflict with any provision of those
5 sections, the rights, duties, and obligations of the health insurer and the
6 covered individual shall be governed by the provisions of those sections.

7 § 4037. APPLICATIONS FOR INSURANCE

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

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

20 (b) No alteration of a written application for a policy shall be made by any
21 person other than the applicant without the applicant's written consent, except

1 that insertions may be made by the health insurer, for administrative purposes
2 only, in a manner that indicates clearly that the insertions are not to be ascribed
3 to the applicant.

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

8 § 4038. RULEMAKING ON POLICY FILINGS

9 The Commissioner may adopt such reasonable rules concerning the
10 procedure for the filing or submission of policies subject to sections 4023 and
11 4028–4030 of this title as are necessary, proper, or advisable for the
12 administration of these sections. This provision shall not abridge any other
13 authority granted to the Commissioner by law.

14 Subchapter 3. Group Coverage

15 § 4041. GROUP HEALTH INSURANCE POLICIES; DEFINITIONS

16 (a) As used in this section:

17 (1) “Employees” includes the officers, managers, and employees of the
18 employer; the partners, if the employer is a partnership; the officers, managers,
19 and employees of subsidiary or affiliated corporations of a corporation
20 employer; and the individual proprietors, partners, and employees of

1 individuals and firms, the business of which is controlled by the insured
2 employer through stock ownership, contract, or otherwise.

3 (2) "Employer" may be deemed to include any municipal or
4 governmental entity or officer, or the appropriate officer for an unincorporated
5 town or gore or for the Unified Towns and Gores of Essex County, as well as
6 private individuals, partnerships, and corporations.

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

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

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

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

1 (i) to an association, a trust, or one or more trustees of a fund
2 established by one or more associations otherwise eligible for the issuance of a
3 policy under this subdivision (2) and maintained, directly or indirectly, by one
4 or more associations for the benefit of its members or a contract or plan issued
5 by such an association or trust; or

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

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

9 (I) a minimum of 100 persons at the time of incorporation or
10 formation;

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

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

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

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

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

19 (cc) the members constitute a majority of the voting power
20 of the association for all purposes and have representation on the governing
21 board and committees.

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

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

7 (aa) common board members, officers, executives, or
8 employees;

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

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

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

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

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

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

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

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

11 (i) two or more employers;

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

13 or

14 (iii) one or more employers and one or more labor unions or
15 similar employee organizations.

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

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

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

6 § 4042. GROUP INSURANCE POLICIES; REQUIRED POLICY

7 PROVISIONS

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

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

1 insurance or reduce benefits under the policy unless contained in a written
2 application, of which a copy is attached to the policy.

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

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

12 (4) A provision that the health insurer shall not exclude part-time
13 employees and shall offer the same group health benefits to part-time
14 employees as it offers to the employee groups of which the part-time
15 employees would be members if they were full-time employees. The health
16 insurer shall offer to include the part-time employees as part of the employer's
17 employee group, at the full rate to be paid by the employer and the employee,
18 at a rate prorated between the employer and the employee, or at the employee's
19 expense. As used in this subdivision, "part-time employee" means any
20 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 45
14 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.

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

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

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

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

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

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

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

12 (2) The person is covered by Medicare.

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

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

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

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

6 § 4047b. CONTINUATION; NOTICE; TERMS

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

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

13 (1) “Group health insurance policy or subscriber contract” means a
14 policy or contract that meets the following conditions:

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

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

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

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 of that the employer or member
6 is in a condition of total disability on the date of termination of the group
7 policy 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

1 may set different community rates for persons eligible for Medicare by reason
2 of age and persons eligible for Medicare by reason of disability.

3 (b) Premium increases.

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

13 (2) Within five days after receiving notification pursuant to subdivision (1)
14 of this subsection, the Department of Disabilities, Aging, and Independent
15 Living shall inform the members of the Advisory Board established pursuant to
16 33 V.S.A. § 505 of the proposed premium increase.

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

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

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

14 (C)(i) In reviewing any Medicare supplement insurance rate increase for
15 which an independent analysis has been performed pursuant to 33 V.S.A. §
16 6706 and in which the health insurer's requested composite average increase,
17 the independent expert's recommended composite average rate increase, or the
18 Department actuary's recommended composite average rate increase differ by
19 two percentage points or more, the Commissioner shall hold a public hearing at
20 which the health insurer, the Department's actuary, the independent expert, any
21 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 supplement
5 insurance rate filing, including any analysis by the Department's actuary and
6 the independent expert, shall be made available to the public upon request.

7 (c) Disability.

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

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

19 (d) Outreach and education. The Department of Financial Regulation shall
20 collaborate with health insurers, advocates for older Vermonters and for other
21 Medicare-eligible adults, and the Office of the Health Care Advocate to

1 educate the public about the benefits and limitations of Medicare supplement
2 insurance policies and Medicare Advantage plans, including information to
3 help the public understand issues relating to coverage, costs, and provider
4 networks.

5 § 4052. BLANKET HEALTH INSURANCE

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

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

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

17 (3) under a policy or contract issued to a public school, independent
18 school, or approved education program, as those terms are defined in 16
19 V.S.A. § 11; to a postsecondary school, as defined in 16 V.S.A. § 176(b)(1); or
20 to a prequalified private prekindergarten provider, as defined in 16 V.S.A.
21 § 829(a)(3), or to the head or principal of the school, program, or provider,

1 who or which shall be deemed the policyholder, covering students or teachers,
2 or both;

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

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

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

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

20 (3) All benefits under any blanket health policy shall, unless for hospital
21 and physician service or surgical benefits, be payable to the person insured, or

1 to the person's designated beneficiary or beneficiaries, or to the person's
2 estate, except that if the person insured is a minor, the benefits may be made
3 payable to the minor's parent, guardian, or other person actually supporting the
4 minor.

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

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

17 § 4053. SHORT-TERM, LIMITED-DURATION HEALTH INSURANCE

18 (a) As used in this section, "short-term, limited-duration health insurance"
19 means health insurance that provides medical, hospital, or major medical
20 expense benefits coverage pursuant to a policy or contract with a health insurer

1 and that has an expiration date specified in the policy or contract that is three
2 months or less after the original effective date of the policy or contract.

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

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

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

21 (e) The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25:

1 (1) establishing the minimum financial, marketing, service, and other
2 requirements for registration of a health insurer to provide short-term, limited-
3 duration health insurance coverage to individuals in this State;

4 (2) requiring a health insurer seeking to provide short-term, limited-
5 duration health insurance coverage to individuals in this State to file its rates
6 and forms with the Commissioner for the Commissioner's approval;

7 (3) requiring a health insurer seeking to provide short-term, limited-
8 duration health insurance coverage to individuals in this State to file its
9 advertising materials with the Commissioner for the Commissioner's approval;

10 and

11 (4) establishing such other requirements as the Commissioner deems
12 necessary to protect Vermont consumers and promote the stability of
13 Vermont's health insurance markets.

14 (f) The provisions of section 4063 of this title, and any rules adopted under
15 that section, shall apply to short-term, limited-duration health insurance
16 coverage.

17 Subchapter 7. Child and Dependent Coverage

18 § 4057. COVERAGE OF CHILDREN

19 (a) Definition. "Health insurance plan" has the same meaning as in section
20 4011 of this chapter and shall be subject to the same excepted benefits, in each
21 case, as set forth in 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

1 (b) Newborn coverage.

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

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

15 (c) Adopted child coverage.

16 (1) As used in this section:

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

20 (B) “Placement for adoption” means the assumption and retention by
21 a person of a legal obligation for total or partial support of a child in

1 anticipation of the adoption of the child. The child's placement with a person
2 terminates upon the termination of such legal obligations.

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

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

14 (d) Coverage required until 26 years of age. A health insurance plan that
15 provides dependent coverage of children shall continue to make that coverage
16 available for an adult child until the child attains 26 years of age, provided that
17 this subsection shall not apply to a plan providing coverage for a specified
18 disease or other limited benefit coverage, and further provided that nothing in
19 this subsection shall require a plan to make coverage available for the child of
20 a child receiving dependent coverage.

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

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

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

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

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

12 (2) Coverage under subdivision (1) of this subsection shall not be denied
13 any person based upon the existence of such a condition; provided, however,
14 that a health insurance plan may require reasonable periodic proof of a
15 continuing condition no more frequently than once every year.

16 (f) Coverage of leave of absence from college. A health insurance plan that
17 covers dependent children who are full-time college students beyond 18 years
18 of age shall include coverage for a dependent's medically necessary leave of
19 absence from school for a period not to exceed 24 months or the date on which
20 coverage would otherwise end pursuant to the terms and conditions of the
21 policy or coverage, whichever comes first, except that coverage may continue

1 under subsection (b) of this section as appropriate. To establish entitlement to
2 coverage under this subsection, documentation and certification by the
3 student's treating health care professional of the medical necessity of a leave of
4 absence shall be submitted to the health insurer or, for self-insured plans, the
5 health plan administrator. The health insurance plan may require reasonable
6 periodic proof from the student's treating health care professional that the
7 leave of absence continues to be medically necessary.

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

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

12 (2) permit either parent, a provider with parental authorization, the State
13 Medicaid agency as assignee, or any State agency administering health benefits
14 or a health benefit plan for which Medicaid is a source of funding to submit
15 claims for covered services, and to appeal the denial of any benefit, without the
16 approval of the other parent; and

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

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

3 § 4058. MEDICAL SUPPORT ORDERS

4 (a) As used in this section:

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

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

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

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

15 (2) the child is not claimed as a dependent on the parent’s federal tax
16 return; or

17 (3) the child does not reside with the parent or in the health insurer’s
18 service area.

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

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

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

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

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

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

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

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

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

10 (f) Notice by first class mail, postage prepaid, or by any other method
11 showing actual receipt, shall be presumptive evidence of its receipt by the
12 health insurer to whom it is addressed. Any period of time that is determined
13 under this section by the giving of notice shall commence to run from the date
14 of mailing, if the notice is mailed, or the date of actual receipt if another
15 method of transmitting the notice is used.

16 (g) A health insurer may cancel any health insurance plan that is the subject
17 of a medical support order for nonpayment of premium only if the health
18 insurer mails or delivers notice of cancellation to both parents and all other
19 persons or agencies identified in the medical support order. Any health insurer
20 cancelling a health insurance plan for nonpayment of premium shall reinstate

1 the health insurance plan effective from the date of cancellation if the
2 nonpayment of premium is cured within 45 days of the cancellation.

3 § 4059. COVERAGE FOR CIVIL UNIONS

4 (a) As used in this section:

5 (1) “Dependent coverage” means family coverage or coverage for one
6 or more persons.

7 (2) “Party to a civil union” has the same meaning as in 15 V.S.A. §
8 1201.

9 (b) Notwithstanding any provision of law to the contrary, health insurers
10 shall provide dependent coverage to parties to a civil union that is equivalent to
11 that provided to covered individuals who are married. A health insurance
12 policy that provides coverage for a spouse or family member of the covered
13 individual shall also provide the equivalent coverage for a party to a civil
14 union.

15 § 4060. COVERAGE FOR EMPLOYEES OF AN EMPLOYER

16 DOMICILED OUTSIDE VERMONT

17 (a) As used in this section:

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

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

20 (b) To the extent permitted under federal law, health insurance coverage
21 provided to Vermont residents who work for an employer domiciled outside

1 Vermont shall not distinguish between parties to a civil union, married same-
2 sex couples, and married opposite-sex couples.

3 Subchapter 8. Internal and External Reviews

4 § 4063. INDEPENDENT EXTERNAL REVIEW OF HEALTH CARE

5 SERVICE DECISIONS

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

10 (b) A covered individual who has exhausted all applicable internal review
11 procedures provided by the health insurance plan shall have the right to an
12 independent external review of a decision under a health insurance plan to
13 deny, reduce, or terminate health care coverage or to deny payment for a health
14 care service. The independent review shall be available when requested in
15 writing by the affected covered individual, provided the decision to be
16 reviewed requires the plan to expend at least \$100.00 for the service and the
17 decision by the plan is based on one of the following reasons:

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

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

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

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

13 (5) The decision involves an adverse determination related to surprise
14 medical billing, as established under Section 2799A-1 or 2799A-2 of the
15 Public Health Service Act, including with respect to whether an item or service
16 that is the subject of the adverse determination is an item or service to which
17 Section 2799A-1 or 2799A-2 of the Public Health Service Act, or both,
18 applies.

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

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

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

5 (A) by independent review organizations pursuant to a contract with
6 the Department, and the reviewers shall include health care providers
7 credentialed with respect to the health care service under review and shall have
8 no conflict of interest relating to the performance of their duties under this
9 section; and

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

14 (2) A covered individual shall:

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

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

19 (C) Pay an application fee of \$25.00 for each request for an
20 independent external review of an appealable decision not to exceed a total of
21 \$75.00 annually. The application fee may be waived or reduced based on a

1 determination by the Commissioner that the financial circumstances of the
2 covered individual warrant a waiver or reduction. The application fee shall be
3 paid by the health insurer, not the covered individual, if the independent
4 review organization reverses the health insurer's decision to deny payment for
5 a health care service.

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

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

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

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

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

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

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

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

5 § 4064. MENTAL HEALTH SERVICES REVIEW

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

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

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

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

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

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

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

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

8 (3) “Mental health services” mean acts of diagnosis, treatment,
9 evaluation, or advice or any other acts permissible under the health care laws
10 of Vermont, whether performed in an outpatient or institutional setting, and
11 include treatment for substance use disorder.

12 (4) “Review agent” means a person or entity performing service review
13 activities within one year following the date of submission of a fully compliant
14 application for licensure who is affiliated with, under contract with, or acting
15 on behalf of a business entity in this State and who provides or administers
16 mental health benefits to members of health insurance plans subject to the
17 Department’s jurisdiction, including a health insurer.

18 (5) “Service review” means any system for reviewing the appropriate
19 and efficient allocation of mental health services given or proposed to be given
20 to a client or patient, or to a group of clients or patients, for the purpose of
21 recommending or determining whether the services should be covered and

1 includes activities of utilization review and managed care, but does not include
2 professional peer review that does not affect reimbursement for or provision of
3 services.

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

14 (1) A requirement that within 10 business days after receiving a request
15 for them, the review agent shall make available at no cost to the clients,
16 patients, and providers affected by its service review activities the specific
17 review criteria and standards, credentials of the reviewing professionals, and
18 procedures and methods to be used in evaluating proposed or delivered mental
19 health services.

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

1 (3) A requirement that any determination regarding mental health
2 services rendered or to be rendered to a client or patient that may result in a
3 denial of third-party reimbursement or a denial of pre-certification for that
4 service shall include the evaluation, findings, and concurrence of a mental
5 health professional whose training and expertise is at least comparable to that
6 of the treating mental health provider.

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

9 (5) A requirement that a determination by a review agent that care
10 rendered or to be rendered is inappropriate shall not be made until the review
11 agent has communicated with the patient's attending mental health provider
12 concerning that care. The review shall be prospective or concurrent with the
13 treatment.

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

17 (7) A procedure for clients, patients, mental health providers, and
18 hospitals to seek prompt reconsideration before an independent review
19 organization pursuant to section 4063 of this title of an adverse decision by a
20 review agent. The external reviewer engaged by the independent review

1 organization shall have training and expertise at least comparable to that of the
2 treating health care provider.

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

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

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

14 (B) Nothing in this subdivision shall prohibit capitation arrangements
15 for reimbursement for mental health services.

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

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

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

6 (g) A review agent shall pay a license fee of \$200.00 for the year of
7 registration and a renewal fee of \$200.00 for each year thereafter. In addition,
8 a review agent shall pay any additional expenses incurred by the
9 Commissioner to examine and investigate an application or an amendment to
10 an application.

11 (i) The confidentiality of any health care information acquired by or
12 provided to an independent review organization pursuant to section 4063 of
13 this title shall be maintained in compliance with any applicable State or federal
14 laws. Records of, and internal materials prepared for, specific reviews under
15 this section shall be exempt from public inspection and copying under the
16 Public Records Act.

17 Subchapter 9. Required Covered Benefits

18 § 4067. APPLICATION OF SUBCHAPTER

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

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

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

5 (3) do not apply to Vermont Medicaid.

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

11 § 4068. CHIROPRACTIC SERVICES

12 (a) A health insurance plan shall provide coverage for clinically necessary
13 health care services provided by a chiropractic physician licensed in this State
14 for treatment within the scope of practice described in 26 V.S.A. chapter 10,
15 but limiting adjunctive therapies to physiotherapy modalities and rehabilitative
16 exercises. A health insurance plan does not have to provide coverage for the
17 treatment of any visceral condition arising from problems or dysfunctions of
18 the abdominal or thoracic organs.

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

1 (c) For silver- and bronze-level qualified health benefit plans and any
2 reflective health benefit plans offered at the silver or bronze level pursuant to
3 33 V.S.A. chapter 18, subchapter 1, health care services provided by a
4 chiropractic physician may be subject to a co-payment requirement, provided
5 that any required co-payment amount shall be between 125 and 150 percent of
6 the amount of the co-payment applicable to care and services provided by a
7 primary care provider under the plan.

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

12 § 4069. PROSTHETIC DEVICES

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

15 (b) A health insurance plan shall provide coverage for prosthetic devices
16 that is at least equivalent to the coverage provided by the federal Medicare
17 program. Coverage may be limited to the prosthetic device that is the most
18 appropriate model that is medically necessary to meet the patient’s medical
19 needs. Any dispute between the covered individual and the carrier concerning
20 coverage and the application of this section shall be subject to independent
21 external review under section 4063 of this title.

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

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

6 (e) The coverage for prosthetic devices shall not be subject to a deductible,
7 co-payment, or coinsurance provision that is less favorable to a covered
8 individual than the deductible, co-payment, or coinsurance provisions that
9 apply generally to other non-primary care items and services under the health
10 insurance plan.

11 § 4070. HEARING AID COVERAGE IN LARGE GROUP HEALTH

12 INSURANCE PLANS

13 (a) As used in this section:

14 (1) “Hearing aid” means any small, wearable electronic instrument or
15 device designed and intended for the ear for the purpose of aiding or
16 compensating for impaired human hearing and any related parts, attachments,
17 or accessories, including earmolds and associated remote microphones that
18 pair with hearing aids to improve word comprehension in difficult listening
19 situations in live or telecommunication settings. The term does not include
20 large-audience assisted listening devices, such as those designed for

1 auditoriums, or stand-alone assisted listening devices that can function without
2 a hearing aid.

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

6 (A) evaluation for a hearing aid;

7 (B) fitting of a hearing aid;

8 (C) programming of a hearing aid;

9 (D) hearing aid repairs;

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

12 (F) ear mold impressions; and

13 (G) auditory rehabilitation and training.

14 (3) “Hearing care professional” means an audiologist or hearing aid
15 dispenser licensed under 26 V.S.A. chapter 67, a physician licensed under 26
16 V.S.A. chapter 23 or 33, a physician assistant licensed under 26 V.S.A. chapter
17 31, or an advanced practice registered nurse licensed under 26 V.S.A. chapter
18 28, working within that professional’s scope of practice.

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

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

3 (B) a health benefit plan offered by an intermunicipal insurance
4 association to one or more entities providing educational services pursuant to
5 24 V.S.A. chapter 121, subchapter 6.

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

11 (2) A large group health insurance plan may limit coverage to not more
12 than one hearing aid per ear every three years, except that a plan shall cover
13 the cost of one or more new hearing aids for a covered individual prior to the
14 expiration of the three-year period based on a hearing care professional's
15 determination that a new hearing aid for one or both ears is medically
16 necessary.

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

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

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

6 § 4071. GENDER-AFFIRMING HEALTH CARE SERVICES

7 (a) As used in this section, “gender affirming health care services” has the
8 same meaning as in 1 V.S.A. § 150.

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

11 (A) are medically necessary and clinically appropriate for the
12 individual’s diagnosis or health condition; and

13 (B) are included in the State’s essential health benefits benchmark
14 plan.

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

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

1 (d) 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. The coverage provided pursuant to this section
4 by Medicaid and other public health care assistance programs shall comply
5 with any requirements imposed on such coverage by the Centers for Medicare
6 and Medicaid Services.

7 § 4072. MENTAL HEALTH AND SUBSTANCE USE DISORDER

8 SERVICES

9 (a) It is the goal of the General Assembly that treatment for mental
10 conditions be recognized as an integral component of health care, that health
11 insurance plans cover all necessary and appropriate medical services without
12 imposing practices that create barriers to receiving appropriate care, and that
13 integration of health care be recognized as the standard for care in this State.

14 (b) As used in this section:

15 (1) “Mental condition” means any condition or disorder involving
16 psychiatric disabilities or substance use disorder that falls under any of the
17 diagnostic categories listed in the mental disorders section of the International
18 Classification of Diseases, as periodically revised.

19 (2) “Mental health provider” means any individual, corporation, facility,
20 or institution certified or licensed by this State to provide mental health
21 services, including a physician, nurse with recognized psychiatric specialties,

1 hospital or other health care facility, psychologist, clinical social worker,
2 mental health counselor, alcohol or drug abuse counselor, or an employee or
3 agent of such provider acting in the course and scope of employment or an
4 agency related to mental health services.

5 (3) “Rate, term, or condition” means any lifetime or annual payment
6 limits, deductibles, copayments, coinsurance, and any other cost-sharing
7 requirements, out-of-pocket limits, visit limits, and any other financial
8 component of health insurance coverage that affects the covered individual.

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

11 (1) not establish any rate, term, or condition that places a greater burden
12 on a covered individual for access to treatment for a mental condition than for
13 access to treatment for other health conditions, including no greater co-
14 payment for primary mental health care or services than the co-payment
15 applicable to care or services provided by a primary care provider under a
16 covered individual’s health insurance plan and no greater co-payment for
17 specialty mental health care or services than the co-payment applicable to care
18 or services provided by a specialist provider under a covered individual’s
19 health insurance plan;

20 (2) not exclude from its network or list of authorized providers any
21 licensed mental health or substance use disorder treatment provider located

1 within the geographic coverage area of the health insurance plan if the provider
2 is willing to meet the terms and conditions for participation established by the
3 health insurer;

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

7 (4) if the health insurance plan provides prescription drug coverage,
8 ensure that at least one medication in each therapeutic class approved by the
9 U.S. Food and Drug Administration for the treatment of substance use
10 disorder, including for opioid use disorder, methadone, buprenorphine, and
11 naltrexone, is available on the lowest cost-sharing tier of the plan's
12 prescription drug formulary.

13 (d)(1)(A) A health insurance plan that does not otherwise provide for
14 management of care under the plan, or that does not provide for the same
15 degree of management of care for all health conditions, may provide coverage
16 for treatment of mental conditions through a managed care organization,
17 provided that the managed care organization is in compliance with rules
18 adopted by the Commissioner that ensure that the system for delivery of
19 treatment for mental conditions does not diminish or negate the purpose of this
20 section. In reviewing policy rates and forms pursuant to section 4026 of this
21 title, the Commissioner or the Green Mountain Care Board established in 18

1 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy
2 with the provisions of this section.

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

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

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

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

9 (iv) utilization review and other administrative and clinical
10 protocols do not deter timely and appropriate care, including emergency
11 hospital admissions;

12 (v) in the case of a managed care organization that contracts with
13 a health insurer to administer the health insurer's mental health benefits, the
14 portion of a health insurer's premium rate attributable to the coverage of
15 mental health benefits is reviewed under section 4026, 4513, 4584, or 5104 of
16 this title to determine whether it is excessive, inadequate, unfairly
17 discriminatory, unjust, unfair, inequitable, misleading, or contrary to the laws
18 of this State;

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

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

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

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

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

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

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

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

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

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

10 (2) A managed care organization providing or administering coverage
11 for treatment of mental conditions on behalf of a health insurance plan shall
12 comply with this section, sections 4064 and 4724 of this title, and 18 V.S.A. §
13 9414; with rules adopted pursuant to those provisions of law; and with all other
14 obligations, under Title 18 and under this title, of the health insurance plan and
15 the health insurer on behalf of which the managed care organization is
16 providing or administering coverage. A violation of any provision of this
17 section shall constitute an unfair act or practice in the business of insurance in
18 violation of section 4723 of this title.

19 (3) A health insurer that contracts with a managed care organization to
20 provide or administer coverage for treatment of mental conditions is fully
21 responsible for the acts and omissions of the managed care organization,

1 including any violations of this section or a rule adopted pursuant to this
2 section.

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

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

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

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

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

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

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

1 (B) a health insurer or its delegate;

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

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

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

9 (1) For treatment of a mental condition, either:

10 (A) by a licensed or certified mental health professional; or

11 (B) in a mental health facility qualified pursuant to rules adopted by
12 the Secretary of Human Services or in an institution, approved by the Secretary
13 of Human Services, that provides a program for the treatment of a mental
14 condition pursuant to a written plan.

15 (2) For treatment of substance abuse disorder, either:

16 (A) by a licensed alcohol and drug abuse counselor or other person
17 approved by the Secretary of Human Services based on rules adopted by the
18 Secretary that establish standards and criteria for determining eligibility under
19 this subdivision; or

1 (B) in an institution, approved by the Secretary of Human Services,
2 that provides a program for the treatment of substance use disorder pursuant to
3 a written plan.

4 § 4073. DIABETES TREATMENT

5 (a) A health insurance plan shall provide coverage for the equipment,
6 supplies, and outpatient self-management training and education, including
7 medical nutrition therapy, for the treatment of insulin-dependent diabetes,
8 insulin-using diabetes, gestational diabetes, and noninsulin-using diabetes if
9 prescribed by a health care professional.

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

14 § 4074. TREATMENT OF INHERITED METABOLIC DISORDERS

15 (a) As used in this section:

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

19 (2) “Low protein modified food product” means a food product that is
20 specifically formulated to have less than one gram of protein per serving and is

1 intended to be used under the direction of a health care professional for the
2 dietary treatment of a metabolic disorder.

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

6 (b) A health insurance plan shall provide coverage for medical foods
7 prescribed for medically necessary treatment for an inherited metabolic
8 disorder.

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

13 § 4075. CRANIOFACIAL DISORDERS

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

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

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

6 § 4076. HOME HEALTH SERVICES

7 (a) As used in this section:

8 (1) “Home health agency” means a nonprofit home health agency that
9 has been certified under Title XVIII of the Social Security Act (42 U.S.C. §
10 1395 et seq.).

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

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

18 (B) Physical therapy.

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

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

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

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

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

13 (4) Each visit by a member of a home health care agency, other than a
14 home health aide, shall be considered one home health care visit, and four
15 hours of home health aide service shall be considered one home health care
16 visit. Coverage shall be provided for maternity and childbirth.

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

19 (c) A health insurance plan shall not impose greater coinsurance, co-
20 payment, deductible, or other cost-sharing requirements for coverage of home

1 health care than apply to the diagnosis and treatment of any other physical or
2 mental condition under the plan.

3 § 4077. REPRODUCTIVE HEALTH CARE SERVICES

4 (a)(1) A health insurance plan shall provide coverage for outpatient
5 contraceptive services including sterilizations, and shall provide coverage for
6 the purchase of all prescription contraceptives and prescription contraceptive
7 devices approved by the U.S. Food and Drug Administration (FDA), except
8 that a health insurance plan that does not provide coverage of prescription
9 drugs is not required to provide coverage of prescription contraceptives and
10 prescription contraceptive devices.

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

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

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

4 (2)(A) If there is a therapeutic equivalent of a drug, device, or other
5 product for an FDA-approved contraceptive method, a health insurance plan
6 may provide coverage for more than one drug, device, or other product and
7 may impose cost-sharing requirements as long as at least one drug, device, or
8 other product for that method is available without cost sharing.

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

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

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

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

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

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

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

1 § 4078. MIDWIFERY COVERAGE; HOME BIRTHS

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

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

12 (c) 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 § 4079. ABORTION AND ABORTION-RELATED SERVICES

16 (a) As used in this section, “abortion” means any medical treatment
17 intended to induce the termination of, or to terminate, a clinically diagnosable
18 pregnancy except for the purpose of producing a live birth.

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

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.

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

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

10 (2) for coverage provided by Medicaid.

11 § 4080. ANESTHESIA FOR CERTAIN DENTAL PROCEDURES

12 (a) As used in this section:

13 (1) “Ambulatory surgical center” shall have the same meaning as in
14 18 V.S.A. § 2141.

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

17 (A) has completed a residency in anesthesiology approved by the
18 American Board of Anesthesiology or the American Osteopathic Board of
19 Anesthesiology or their predecessors or successors; or

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

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

4 (4) “Licensed mental health professional” means a licensed physician,
5 psychologist, psychoanalyst, social worker, marriage and family therapist,
6 clinical mental health counselor, or nurse with professional training,
7 experience, and demonstrated competence in the treatment of a mental
8 condition or psychiatric disability.

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

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

20 (2) a child 12 years of age or younger with documented phobias or a
21 documented mental condition or psychiatric disability, as determined by a

1 physician licensed pursuant to 26 V.S.A. chapter 23 or 33 or by a licensed
2 mental health professional, whose dental needs are sufficiently complex and
3 urgent that delaying or deferring treatment can be expected to result in
4 infection, loss of teeth, or other increased oral or dental morbidity; for whom a
5 successful result cannot be expected from dental care provided under local
6 anesthesia; and for whom a superior result can be expected from dental care
7 provided under general anesthesia; or

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

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

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

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

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

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

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

4 (f) The provisions of this section shall not be construed to prevent or
5 require reimbursement by a health insurance plan for the provision of general
6 anesthesia and associated facility charges to a dentist holding a general
7 anesthesia endorsement issued by the Vermont Board of Dental Examiners if
8 the dentist has provided services pursuant to this section on an outpatient basis
9 in the dentist's own office and the dentist is in compliance with the
10 endorsement's terms and conditions.

11 § 4081. TOBACCO CESSATION

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

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

1 (c) 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.

4 § 4082. EARLY CHILDHOOD DEVELOPMENT DISORDERS

5 (a) As used in this section:

6 (1) “Applied behavior analysis” means the design, implementation, and
7 evaluation of environmental modifications using behavioral stimuli and
8 consequences to produce socially significant improvement in human behavior.

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

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

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

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

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

5 (4) “Diagnosis of early childhood developmental disorders” means
6 medically necessary assessments, evaluations, or tests to determine whether an
7 individual has an early childhood developmental delay, including an autism
8 spectrum disorder.

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

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

16 (7) “Medically necessary” describes health care services that are
17 appropriate in terms of type, amount, frequency, level, setting, and duration to
18 the individual’s diagnosis or condition; are informed by generally accepted
19 medical or scientific evidence; and are consistent with generally accepted
20 practice parameters. Such services shall be informed by the unique needs of
21 each individual and each presenting situation and shall include a determination

1 that a service is needed to achieve proper growth and development or to
2 prevent the onset or worsening of a health condition.

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

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

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

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

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

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

18 (A) behavioral health treatment;

19 (B) pharmacy care;

20 (C) psychiatric care;

21 (D) psychological care; and

1 (E) therapeutic care.

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

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

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

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

20 (d) A health insurance plan shall not impose greater coinsurance, co-
21 payment, deductible, or other cost-sharing requirements for coverage of the

1 diagnosis or treatment of early childhood developmental disorders than apply
2 to the diagnosis and treatment of any other physical or mental condition under
3 the plan.

4 (e)(1) A health insurance plan shall provide coverage for applied behavior
5 analysis when the services are provided or supervised by a licensed health care
6 professional who is working within the scope of the health care professional's
7 license or who is a nationally board-certified behavior analyst.

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

14 (f) Except for inpatient services, if an individual is receiving treatment for
15 an early developmental delay, the health insurance plan may require treatment
16 plan reviews based on the needs of the covered individual, consistent with
17 reviews for other diagnostic areas and with rules established by the Department
18 of Financial Regulation. A health insurance plan may review the treatment
19 plan for children under eight years of age no more frequently than once every
20 six months.

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

5 (h) It is the intent of the General Assembly that the Department of
6 Financial Regulation facilitate and encourage health insurance plans to bundle
7 co-payments accrued by beneficiaries receiving services under this section to
8 the extent possible.

9 § 4083. SERVICES FOR VICTIMS OF SEXUAL ASSAULT

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

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

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

19 (b) A health insurance plan shall not impose any co-payment or
20 coinsurance or, to the extent permitted under federal law, deductible or other
21 cost-sharing requirement for the sexual assault examination of a victim of

1 alleged sexual assault for health care services associated with specific
2 procedure codes identified in a memorandum of understanding between the
3 health insurer and the Vermont Center for Crime Victim Services.

4 § 4084. PHYSICAL THERAPY CO-PAYMENTS FOR CERTAIN PLANS

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

12 Subchapter 10. Prescription Drug Coverage

13 § 4091. DEFINITIONS

14 (a) Definitions. As used in this subchapter:

15 (1) “Direct solicitation” means direct contact, including telephone,
16 computer, e-mail, instant messaging, or in-person contact, by a pharmacy
17 provider or its agent to an individual covered under a health insurance plan
18 without the covered individual’s consent for the purpose of marketing the
19 pharmacy provider’s services.

20 (2) “Health care professional” means an individual licensed to practice
21 medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a

1 physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an
2 advanced practice registered nurse under 26 V.S.A. chapter 28.

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

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

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

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

17 (A) mail service pharmacy;

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

20 (C) clinical formulary development and management services;

21 (D) rebate contracting and administration;

1 (E) certain patient compliance, therapeutic intervention, and generic
2 substitution programs; and

3 (F) disease management programs.

4 (7) “Pharmacy benefit manager affiliate” means a pharmacy or
5 pharmacist that, directly or indirectly, through one or more intermediaries, is
6 owned or controlled by, or is under common ownership or control with, a
7 pharmacy benefit manager.

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

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

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

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

16 (D) medications with specialized handling, storage, or inventory
17 reporting requirements.

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

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

4 § 4092. PRESCRIPTION DRUG COVERAGE

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

7 (b) A health insurance plan shall limit a covered individual’s out-of-pocket
8 expenditures for all prescription drugs to not more for self-only and family
9 coverage per year than the minimum dollar amounts in effect under Section
10 223(c)(2)(A)(i) of the Internal Revenue Code of 1986 for self-only and family
11 coverage, respectively.

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

20 (2) Once the applicable expenditure amount set forth in subdivision (1)
21 of this subsection has been met under the HDHP, coverage for prescription

1 drug benefits shall begin, and the limit on out-of-pocket expenditures for
2 prescription drug benefits shall be as specified in subsection (b) of this section.

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

4 (A) not require failure, including discontinuation due to lack of
5 efficacy or effectiveness, diminished effect, or an adverse event, on the same
6 drug on more than one occasion for covered individuals who are continuously
7 enrolled in a plan offered by the health insurer or its pharmacy benefit
8 manager; and

9 (B) grant an exception to its step-therapy protocols upon request of a
10 covered individual or the covered individual's treating health care professional
11 under the same time parameters as set forth for prior authorization requests in
12 18 V.S.A. § 9418b(g)(4) if any one or more of the following conditions apply:

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

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

19 (iii) the covered individual has already tried the prescription drugs
20 on the protocol, or other prescription drugs in the same pharmacologic class or
21 with the same mechanism of action, which have been discontinued due to lack

1 of efficacy or effectiveness, diminished effect, or an adverse event, regardless
2 of whether the covered individual was covered at the time on a plan offered by
3 the current insurer or its pharmacy benefit manager;

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

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

9 (I) pose a barrier to adherence;

10 (II) likely worsen a comorbid condition; or

11 (III) likely decrease the covered individual's ability to achieve
12 or maintain reasonable functional ability.

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

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

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

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

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

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

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

17 (h) A health insurance plan shall cover, without requiring prior
18 authorization, at least one readily available asthma controller drug from each
19 class of drug and mode of administration. As used in this subsection, "readily
20 available" means that the medication is not listed on a national drug shortage

1 list, including lists maintained by the U.S. Food and Drug Administration and
2 by the American Society of Health-System Pharmacists.

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

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

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

15 § 4093. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

16 (a) A health insurer or pharmacy benefit manager doing business in
17 Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36
18 to fill prescriptions for all prescription drugs in the same manner and at the
19 same level of reimbursement as they are filled by any other pharmacist or
20 pharmacy, including a mail-order pharmacy or a pharmacy benefit manager

1 affiliate, with respect to the quantity of drugs or days' supply of drugs
2 dispensed under each prescription.

3 (b) Notwithstanding any provision of a health insurance plan to the
4 contrary, if a health insurance plan provides for payment or reimbursement that
5 is within the lawful scope of practice of a pharmacist, the health insurer may
6 provide payment or reimbursement for the service when the service is provided
7 by a pharmacist.

8 (c)(1) A health insurer or pharmacy benefit manager shall permit a
9 participating network pharmacy to perform all pharmacy services within the
10 lawful scope of the profession of pharmacy as set forth in 26 V.S.A. chapter
11 36.

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

14 (A) Require a covered individual, as a condition of payment or
15 reimbursement, to purchase pharmacist services, including prescription drugs,
16 exclusively through a mail-order pharmacy or a pharmacy benefit manager
17 affiliate.

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

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

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

9 (E) Offer or implement plan designs that increase plan or patient
10 costs if the covered individual chooses not to use a mail-order pharmacy or a
11 pharmacy benefit manager affiliate. The prohibition in this subdivision (E)
12 includes requiring a covered individual to pay the full cost for a prescription
13 drug when the covered individual chooses not to use a mail-order pharmacy or
14 a pharmacy benefit manager affiliate.

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

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

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

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

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

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

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

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

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

1 covered individual with the expectation or intention that the covered individual
2 will transport the medication to a health care setting for administration by a
3 health care professional.

4 (4) A health insurer or pharmacy benefit manager shall not, by contract,
5 written policy, or written procedure, require that a pharmacy designated by the
6 health insurer or pharmacy benefit manager dispense a medication directly to a
7 health care setting for a health care professional to administer to a covered
8 individual.

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

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

1 (A) the covered individual has given written permission to the
2 supplier or the ordering health care professional to contact the covered
3 individual regarding the furnishing of a prescription item that is to be rented or
4 purchased;

5 (B) the supplier has furnished a prescription item to the covered
6 individual and is contacting the covered individual to coordinate delivery of
7 the item; or

8 (C) if the contact relates to the furnishing of a prescription item other
9 than a prescription item already furnished to the covered individual, the
10 supplier has furnished at least one prescription item to the covered individual
11 within the 15-month period preceding the date on which the supplier attempts
12 to make the contact.

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

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

1 Subchapter 11. Prevention and Treatment of Cancer

2 § 4095a. COLORECTAL CANCER SCREENING

3 (a) As used in this section, “colonoscopy” means a procedure that enables
4 a health care professional to examine visually the inside of a patient’s entire
5 colon and includes the concurrent removal of polyps or biopsy, or both.

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

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

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

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

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

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

20 (3) a prior occurrence of a chronic digestive disease condition such as
21 inflammatory bowel disease, Crohn’s disease, or ulcerative colitis; or

1 (4) other predisposing factors as determined by the individual’s treating
2 health care professional.

3 (d) Colorectal cancer screening services performed under contract with the
4 insurer shall not be subject to any co-payment, deductible, coinsurance, or
5 other cost-sharing requirement. In addition, a covered individual shall not be
6 subject to any additional charge for any service associated with a procedure or
7 test for colorectal cancer screening, which may include one or more of the
8 following:

9 (1) removal of tissue or other matter;

10 (2) laboratory services;

11 (3) health care professional services;

12 (4) facility use; and

13 (5) anesthesia.

14 § 4095b. MAMMOGRAPHY AND OTHER BREAST IMAGING

15 SERVICES

16 (a)(1) A health insurance plan shall provide coverage for screening
17 mammography and for other medically necessary breast imaging services upon
18 recommendation of a health care professional as needed to detect the presence
19 of breast cancer and other abnormalities of the breast or breast tissue. In
20 addition, a health insurance plan shall provide coverage for screening by
21 ultrasound or another appropriate imaging service for a covered individual for

1 whom the results of a screening mammogram were inconclusive or who has
2 dense breast tissue, or both.

3 (2) Benefits provided shall cover the full cost of the mammography,
4 ultrasound, and other breast imaging services and shall not be subject to any
5 co-payment, deductible, coinsurance, or other cost-sharing requirement or
6 additional charge, except to the extent that such coverage would disqualify a
7 high-deductible health plan from eligibility for a health savings account
8 pursuant to 26 U.S.C. § 223.

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

11 (c) As used in this section:

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

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

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

4 § 4095c. PROSTATE CANCER SCREENINGS

5 A health insurance plan shall provide coverage for prostate cancer
6 screenings consistent with the recommendations of the Centers for Disease
7 Control and Prevention or upon recommendation of the covered individual’s
8 health care professional. Benefits provided shall be at least as favorable as
9 coverage for other cancer screening procedures and subject to the same dollar
10 limits, deductibles, and coinsurance factors within the provisions of the policy.

11 § 4095d. CHEMOTHERAPY TREATMENT AND ORAL ANTICANCER

12 MEDICATIONS

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

16 (b) A health insurance plan shall provide coverage for prescribed, orally
17 administered anticancer medications used to kill or slow the growth of
18 cancerous cells that is not less favorable on a financial basis than intravenously
19 administered or injected anticancer medications covered under the covered
20 individual’s plan.

1 § 4095e. CLINICAL TRIALS FOR CANCER PATIENTS

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

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

8 (2) Any rules adopted under this section shall be restricted to approved
9 cancer clinical trials conducted under the auspices of the following cancer care
10 providers (cancer care providers): The University of Vermont Medical Center,
11 the Norris Cotton Cancer Center at Dartmouth-Hitchcock Medical Center, and
12 approved clinical trials administered by a hospital and its affiliated, qualified
13 cancer care providers.

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

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

20 (B) the covered individual already has completed a clinical trial at
21 one of the Vermont or New Hampshire cancer care providers described in

1 subdivision (2) of this subsection (a) and the covered individual's cancer care
2 provider determines that a subsequent clinical trial related to the original
3 diagnosis is available outside the health benefit plan's network and that
4 participation in that clinical trial would be in the best interests of the covered
5 individual, even if a comparable clinical trial is available at that time at one or
6 both of the Vermont or New Hampshire cancer care providers described in
7 subdivision (2) of this subsection (a); or

8 (C) the health insurance plan has already approved a referral of the
9 covered individual to an out-of-network cancer care provider and an out-of-
10 network clinical trial becomes available and the covered individual's cancer
11 care provider determines participation in that clinical trial would be in the best
12 interests of the covered individual, even if a comparable clinical trial is
13 available at one or both of the Vermont or New Hampshire cancer care
14 providers described in subdivision (2) of this subsection (a).

15 (4) If a covered individual participates in a clinical trial administered by
16 a cancer care provider that is not in the health insurance plan's provider
17 network, the health insurance plan may require that routine follow-up care be
18 provided within the health insurance plan's network, unless the cancer care
19 provider determines this would not be in the best interest of the covered
20 individual.

1 (b) 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.

4 § 4095f. OFF-LABEL USE OF PRESCRIPTION DRUGS FOR CANCER

5 (a) As used in this section:

6 (1) “Medical or scientific evidence” means one or more of the following
7 sources:

8 (A) peer-reviewed scientific studies published in or accepted for
9 publication by medical journals that meet nationally recognized requirements
10 for scientific manuscripts and that submit most of their published articles for
11 review by experts who are not part of the editorial staff;

12 (B) peer-reviewed literature, biomedical compendia, and other
13 medical literature that meet the criteria of the National Institutes of Health’s
14 National Library of Medicine for indexing in Index Medicus, Excerpta
15 Medicus (EMBASE), Medline, and MEDLARS database Health Services
16 Technology Assessment Research (HSTAR);

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

20 (D) the following standard reference compendia: the American
21 Hospital Formulary Service-Drug Information, the American Medical

1 Association Drug Evaluation, and the United States Pharmacopoeia-Drug
2 Information;

3 (E) findings, studies, or research conducted by or under the auspices
4 of federal government agencies and nationally recognized federal research
5 institutes, including the Agency for Health Care Policy and Research, National
6 Institutes of Health, National Cancer Institute, National Academy of Sciences,
7 Centers for Medicare and Medicaid Services, and any national board
8 recognized by the National Institutes of Health for the purpose of evaluating
9 the medical value of health services; and

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

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

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

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

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

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

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

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

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

18 (c) A determination by a health insurer that an off-label use of a
19 prescription drug under this section is not a medically accepted indication
20 supported by medical or scientific evidence is eligible for review under section
21 4063 of this title.

1 (d) 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.

4 Subchapter 12. Service Delivery and Treatment Modalities

5 § 4098a. COVERAGE OF HEALTH CARE SERVICES DELIVERED

6 THROUGH TELEMEDICINE AND BY STORE-AND-FORWARD

7 MEANS

8 (a) As used in this section:

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

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

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

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

20 (5) “Originating site” means the location of the patient, whether or not
21 accompanied by a health care provider, at the time services are provided by a

1 health care provider through telemedicine, including a health care provider's
2 office, a hospital, or a health care facility, or the patient's home or another
3 nonmedical environment such as a school-based health center, a university-
4 based health center, or the patient's workplace.

5 (6) "Store and forward" means an asynchronous transmission of medical
6 information, such as one or more video clips, audio clips, still images, x-rays,
7 magnetic resonance imaging scans, electrocardiograms,
8 electroencephalograms, or laboratory results, sent over a secure connection that
9 complies with the requirements of the Health Insurance Portability and
10 Accountability Act of 1996, Pub. L. No. 104-191 to be reviewed at a later date
11 by a health care provider at a distant site who is trained in the relevant
12 specialty. In store and forward, the health care provider at the distant site
13 reviews the medical information without the patient present in real time and
14 communicates a care plan or treatment recommendation back to the patient or
15 referring provider, or both.

16 (7) "Telemedicine" means the delivery of health care services, including
17 dental services, such as diagnosis, consultation, or treatment, through the use
18 of live interactive audio and video over a secure connection that complies with
19 the requirements of the Health Insurance Portability and Accountability Act of
20 1996, Pub. L. No. 104-191.

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

6 (2)(A) A health insurance plan shall provide the same reimbursement
7 rate for services billed using equivalent procedure codes and modifiers, subject
8 to the terms of the health insurance plan and provider contract, regardless of
9 whether the service was provided through an in-person visit with the health
10 care provider or through telemedicine.

11 (B) The provisions of subdivision (A) of this subdivision (2) shall not
12 apply:

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

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

19 (b) A health insurance plan may charge a deductible, co-payment, or
20 coinsurance for a health care service or dental service provided through

1 telemedicine as long as it does not exceed the deductible, co-payment, or
2 coinsurance applicable to an in-person consultation.

3 (c) A health insurance plan may limit coverage to health care providers in
4 the plan's network. A health insurance plan shall not impose limitations on the
5 number of telemedicine consultations a covered individual may receive that
6 exceed limitations otherwise placed on in-person covered services.

7 (d) Nothing in this section shall be construed to prohibit a health insurance
8 plan from providing coverage for only those services that are medically
9 necessary and are clinically appropriate for delivery through telemedicine,
10 subject to the terms and conditions of the covered individual's policy.

11 (e)(1) A health insurance plan shall reimburse for health care services and
12 dental services delivered by store-and-forward means.

13 (2) A health insurance plan shall not impose more than one cost-sharing
14 requirement on a covered individual for receipt of health care services or
15 dental services delivered by store-and-forward means. If the services would
16 require cost sharing under the terms of the covered individual's health
17 insurance plan, the plan may impose the cost sharing requirement on the
18 services of the originating site health care provider or of the distant site health
19 care provider, but not both.

20 (f) A health insurance plan shall not construe a covered individual's receipt
21 of services delivered through telemedicine or by store-and-forward means as

1 limiting in any way the covered individual's ability to receive additional
2 covered in-person services from the same or a different health care provider for
3 diagnosis or treatment of the same condition.

4 (g) Nothing in this section shall be construed to require a health insurance
5 plan to reimburse the distant site health care provider if the distant site health
6 care provider has insufficient information to render an opinion.

7 (h) In order to facilitate the use of telemedicine in treating substance use
8 disorder, when the originating site is a health care facility, health insurers and
9 the Department of Vermont Health Access shall ensure that the health care
10 provider at the distant site and the health care facility at the originating site are
11 both reimbursed for the services rendered, unless the health care providers at
12 both the distant and originating sites are employed by the same entity.

13 (i) 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 § 4098b. COVERAGE OF HEALTH CARE SERVICES DELIVERED BY
17 AUDIO-ONLY TELEPHONE

18 (a) As used in this section, "health care provider" means a person,
19 partnership, or corporation, other than a facility or institution, that is licensed,
20 certified, or otherwise authorized by law to provide professional health care

1 services in this State to an individual during that individual's medical care,
2 treatment, or confinement.

3 (b)(1) A health insurance plan shall provide coverage for all medically
4 necessary, clinically appropriate health care services delivered remotely by
5 audio-only telephone to the same extent that the plan would cover the services
6 if they were provided through in-person consultation. Services covered under
7 this subdivision shall include services that are covered when provided in the
8 home by home health agencies.

9 (2)(A) A health insurance plan shall provide the same reimbursement
10 rate for services billed using equivalent procedure codes and modifiers, subject
11 to the terms of the health insurance plan and provider contract, regardless of
12 whether the service was provided through an in-person visit with the health
13 care provider or by audio-only telephone.

14 (B) The provisions of subdivision (A) of this subdivision (2) shall not
15 apply in the event that a health insurer and health care provider enter into a
16 value-based contract for health care services that include care delivered by
17 audio-only telephone.

18 (c) A health insurance plan may charge an otherwise permissible
19 deductible, co-payment, or coinsurance for a health care service delivered by
20 audio-only telephone, provided that it does not exceed the deductible, co-
21 payment, or coinsurance applicable to an in-person consultation.

1 (d) A health insurance plan shall not require a health care provider to have
2 an existing relationship with a covered individual in order to be reimbursed for
3 health care services delivered by audio-only telephone.

4 (e) This section shall apply to Medicaid, to the extent permitted by the
5 Centers for Medicare and Medicaid Services, 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 § 4098c. COVERED SERVICES PROVIDED BY NATUROPATHIC
9 PHYSICIANS

10 (a) A health insurance plan shall provide coverage for medically necessary
11 health care services covered by the plan when provided by a naturopathic
12 physician licensed in this State for treatment within the scope of practice
13 described in 26 V.S.A. chapter 81 and shall recognize naturopathic physicians
14 who practice primary care to be primary care physicians.

15 (b) Health care services provided by naturopathic physicians may be
16 subject to reasonable deductibles, co-payment and coinsurance amounts, and
17 fee or benefit limits consistent with those applicable to other primary care
18 physicians under the plan, as well as practice parameters, cost-effectiveness
19 and clinical efficacy standards, and utilization review consistent with any
20 applicable rules published by the Department of Financial Regulation. Any
21 amounts, limits, standards, and review shall not function to direct treatment in

1 a manner unfairly discriminative against naturopathic care, and collectively
2 shall be not more restrictive than those applicable under the same plan to care
3 or services provided by other primary care physicians, but may allow for the
4 management of the benefit consistent with variations in practice patterns and
5 treatment modalities among different types of health care professionals.

6 (c) A health insurance plan may require that the naturopathic physician's
7 services be provided by a licensed naturopathic physician under contract with
8 the insurer or shall be covered in a manner consistent with out-of-network
9 provider reimbursement practices for primary care physicians; however, this
10 shall not relieve a health insurance plan from compliance with the applicable
11 network adequacy requirements adopted by the Commissioner by rule.

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

16 (e) 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 § 4098d. COVERED SERVICES PROVIDED BY ATHLETIC TRAINERS

20 (a) To the extent a health insurance plan provides coverage for a particular
21 type of health care service or for any particular medical condition that is within

1 the scope of practice of athletic trainers, a licensed athletic trainer who acts
2 within the scope of practice authorized by 26 V.S.A. chapter 83 shall not be
3 denied reimbursement by the health insurance plan for those covered services
4 if the health insurance plan would reimburse another health care professional
5 for those services.

6 (b) Health care services provided by athletic trainers may be subject to
7 reasonable deductibles, co-payment and co-insurance amounts, fee or benefit
8 limits, practice parameters, and utilization review consistent with applicable
9 rules adopted by the Department of Financial Regulation, provided that the
10 amounts, limits, and review shall not function to direct treatment in a manner
11 unfairly discriminative against athletic trainer care, and collectively shall be
12 not more restrictive than those applicable under the same policy for care or
13 services provided by other health care professionals but allowing for the
14 management of the benefit consistent with variations in practice patterns and
15 treatment modalities among different types of health care professionals.

16 (c) A health insurer may require that the athletic trainer services be
17 provided by a licensed athletic trainer under contract with the insurer.

18 (d) Nothing in this section shall be construed as impeding or preventing
19 either the provision or coverage of health care services by licensed athletic
20 trainers within the lawful scope of athletic trainer practice.

1 § 4098e. CHOICE OF PROVIDERS FOR VISION CARE AND MEDICAL
2 EYE CARE SERVICES

3 (a) As used in this section:

4 (1) “Covered services” means services and materials for which
5 reimbursement from a vision care plan or other health insurance plan is
6 provided by a member’s or subscriber’s plan contract, or for which a
7 reimbursement would be available but for application of the deductible, co-
8 payment, or coinsurance requirements under the member’s or subscriber’s
9 health insurance plan.

10 (2) “Health insurance plan” has the same meaning as in section 4011 of
11 this chapter and also includes vision care plans.

12 (3) “Materials” includes lenses, devices containing lenses, prisms, lens
13 treatments and coatings, contact lenses, and prosthetic devices to correct,
14 relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

15 (4) “Ophthalmologist” means a physician licensed pursuant to 26 V.S.A.
16 chapter 23 or an osteopathic physician licensed pursuant to 26 V.S.A. chapter
17 33 who has had special training in the field of ophthalmology.

18 (5) “Optician” means a person licensed pursuant to 26 V.S.A. chapter
19 47.

20 (6) “Optometrist” means a person licensed pursuant to 26 V.S.A.
21 chapter 30.

1 (7) “Vision care plan” means an integrated or stand-alone plan, policy,
2 or contract providing vision benefits to enrollees with respect to covered
3 services or covered materials, or both.

4 (b) To the extent a health insurance plan provides coverage for vision care
5 or medical eye care services, it shall cover those services whether provided by
6 a licensed optometrist or by a licensed ophthalmologist, provided the health
7 care professional is acting within the health care professional’s authorized
8 scope of practice and participates in the plan’s network.

9 (c) A health insurance plan shall impose no greater co-payment,
10 coinsurance, or other cost-sharing amount for services when provided by an
11 optometrist than for the same service when provided by an ophthalmologist.

12 (d) A health insurance plan shall provide to a licensed health care
13 professional acting within the health care professional’s scope of practice the
14 same level of reimbursement or other compensation for providing vision care
15 and medical eye care services that are within the lawful scope of practice of the
16 professions of medicine, optometry, and osteopathy, regardless of whether the
17 health care professional is an optometrist or an ophthalmologist.

18 (e)(1) A health insurer shall permit a licensed optometrist to participate in
19 plans or contracts providing for vision care or medical eye care to the same
20 extent as it does an ophthalmologist.

1 (2) A health insurer shall not require a licensed optometrist or
2 ophthalmologist to provide discounted materials benefits or to participate as a
3 provider in another health insurance or vision care plan or contract as a
4 condition or requirement for the optometrist's or ophthalmologist's
5 participation as a provider in any health insurance or vision care plan or
6 contract.

7 (f)(1) An agreement between a health insurer and an optometrist or
8 ophthalmologist for the provision of vision services to plan members or
9 subscribers in connection with coverage under a stand-alone vision care plan or
10 other health insurance plan shall not require that an optometrist or
11 ophthalmologist provide services or materials at a fee limited or set by the plan
12 or insurer unless the services or materials are reimbursed as covered services
13 under the contract.

14 (2) An optometrist or ophthalmologist shall not charge more for services
15 and materials that are noncovered services under a vision care plan or other
16 health insurance plan than the optometrist's or ophthalmologist's usual and
17 customary rate for those services and materials.

18 (3) Reimbursement paid by a vision care plan or other health insurance
19 plan for covered services and materials shall be reasonable and shall not
20 provide nominal reimbursement in order to claim that services and materials
21 are covered services.

1 (4)(A) A vision care plan or other health insurance plan shall not restrict
2 or otherwise limit, directly or indirectly, an optometrist's, ophthalmologist's,
3 or independent optician's choice of or relationship with sources and suppliers
4 of products, services, or materials or use of optical laboratories if the
5 optometrist, ophthalmologist, or optician determines that the source, supplier,
6 or laboratory that the optometrist, ophthalmologist, or optician has selected
7 offers the products, services, or materials in a manner that is more beneficial to
8 the consumer, including with respect to cost, quality, timing, or selection, than
9 the source, supplier, or laboratory selected by the vision care plan or other
10 health insurance plan. The plan shall not impose any penalty or fee on an
11 optometrist, ophthalmologist, or independent optician for using any supplier,
12 optical laboratory, product, service, or material.

13 (B) The optometrist, ophthalmologist, or optician shall notify the
14 consumer of any additional costs the consumer may incur as the result of
15 procuring the products, services, or materials from the source, supplier, or
16 laboratory selected by the optometrist, ophthalmologist, or optician instead of
17 from the source, supplier, or laboratory selected by the vision care plan or
18 other health insurance plan.

19 (C) Nothing in this subdivision (4) shall be construed to prevent a
20 vision care plan or other health insurance plan from informing its policyholders
21 of the benefits available under the plan or from conducting an audit of an

1 optometrist's, ophthalmologist's, or optician's use of alternative sources,
2 suppliers, or laboratories.

3 (D) The provisions of this subdivision (4) shall not apply to Medicaid.

4 (g)(1) Except as otherwise specified in subdivision (f)(4), this section shall
5 apply to Medicaid and any other public health care assistance program offered
6 or administered by the State or by any subdivision or instrumentality of the
7 State.

8 (2) The Department of Financial Regulation shall enforce the provisions
9 of this section as they relate to health insurance plans and vision care plans
10 other than Medicaid.

11 * * * Conforming Revisions * * *

12 Sec. 3. 1 V.S.A. § 317(c) is amended to read:

13 (c) The following public records are exempt from public inspection and
14 copying:

15 * * *

16 (28) Records of, and internal materials prepared for, independent
17 external reviews of health care service decisions pursuant to ~~8 V.S.A. § 4089f~~
18 8 V.S.A. § 4063 and of mental health care service decisions pursuant to
19 ~~8 V.S.A. § 4089a~~ 8 V.S.A. § 4064.

20 * * *

1 Sec. 4. 8 V.S.A. § 4512(b) is amended to read:

2 (b) Subject to the approval of the Commissioner or the Green Mountain
3 Care Board established in 18 V.S.A. chapter 220, as appropriate, a hospital
4 service corporation may establish, maintain, and operate a medical service plan
5 as defined in section 4583 of this title. The Commissioner or the Board may
6 refuse approval if the Commissioner or the Board finds that the rates submitted
7 are excessive, inadequate, or unfairly discriminatory, fail to protect the hospital
8 service corporation's solvency, or fail to meet the standards of affordability,
9 promotion of quality care, and promotion of access pursuant to section ~~4062~~
10 4026 of this title. The contracts of a hospital service corporation that operates
11 a medical service plan under this subsection shall be governed by chapter 125
12 of this title to the extent that they provide for medical service benefits, and by
13 this chapter to the extent that the contracts provide for hospital service benefits.

14 Sec. 5. 8 V.S.A. § 4515a is amended to read:

15 § 4515a. FORM AND RATE FILING; FILING FEES

16 Every contract or certificate form, or amendment thereof, including the rates
17 proposed to be charged by the corporation, shall be filed with the
18 Commissioner or the Green Mountain Care Board established in 18 V.S.A.
19 chapter 220, as appropriate, for the Commissioner's or the Board's approval
20 prior to issuance or use. Prior to approval, there shall be a public comment
21 period pursuant to section ~~4062~~ 4026 of this title. In addition, each such filing

1 shall be accompanied by payment to the Commissioner or the Board, as
2 appropriate, of a nonrefundable fee of \$150.00 and the plain language
3 summary of rate increases pursuant to section ~~4062~~ 4026 of this title.

4 Sec. 6. 8 V.S.A. § 4516 is amended to read:

5 § 4516. ANNUAL REPORT TO COMMISSIONER

6 Annually, on or before March 1, a hospital service corporation shall file
7 with the Commissioner of Financial Regulation a statement sworn to by the
8 president and treasurer of the corporation showing its condition on December

9 31. The statement shall be in such form and contain such matters as the

10 Commissioner shall prescribe. To qualify for the tax exemption set forth in

11 section 4518 of this title, the statement shall include a certification that the

12 hospital service corporation operates on a nonprofit basis for the purpose of

13 providing an adequate hospital service plan to individuals of the State, both

14 groups and nongroups, without discrimination based on age, gender,

15 geographic area, industry, and medical history, except as allowed by

16 ~~subdivisions 4080g(b)(7)(B)(ii) and 4080g(c)(8)(B)(ii) of this title and by 33~~

17 V.S.A. § 1811(f)(2)(B).

18 Sec. 7. 8 V.S.A. § 4587 is amended to read:

19 § 4587. FILING AND APPROVAL OF CONTRACTS

20 A medical service corporation that has received a permit from the

21 Commissioner of Financial Regulation under section 4584 of this title shall not

1 thereafter issue a contract to a subscriber or charge a rate that is different from
2 copies of the contracts and rates originally filed with and approved by the
3 Commissioner at the time the permit was issued to the medical service
4 corporation, until the medical service corporation has filed copies of its
5 proposed contracts and rates and they have been approved by the
6 Commissioner or the Green Mountain Care Board established in 18 V.S.A.
7 chapter 220, as appropriate. Prior to approval, there shall be a public comment
8 period pursuant to section ~~4062~~ 4026 of this title. Each such filing of a
9 contract or the rate ~~therefor~~ shall be accompanied by payment to the
10 Commissioner or the Board, as appropriate, of a nonrefundable fee of \$150.00.
11 A medical service corporation shall file a plain language summary of rate
12 increases pursuant to section ~~4062~~ 4026 of this title.

13 Sec. 8. 8 V.S.A. § 4588 is amended to read:

14 § 4588. ANNUAL REPORT TO COMMISSIONER

15 Annually, on or before March 1, a medical service corporation shall file
16 with the Commissioner of Financial Regulation a statement sworn to by the
17 president and treasurer of the corporation showing its condition on December
18 31, which shall be in such form and contain such matters as the Commissioner
19 shall prescribe. To qualify for the tax exemption set forth in section 4590 of
20 this title, the statement shall include a certification that the medical service
21 corporation operates on a nonprofit basis for the purpose of providing an

1 adequate medical service plan to individuals of the State, both groups and
2 nongroups, without discrimination based on age, gender, geographic area,
3 industry, and medical history, except as allowed by ~~subdivisions~~
4 ~~4080g(b)(7)(B)(ii) and 4080g(e)(8)(B)(ii) of this title and by~~ 33 V.S.A. §
5 1811(f)(2)(B).

6 Sec. 9. 8 V.S.A. § 4724(7)(E) is amended to read:

7 (E) Making or permitting unfair discrimination between married
8 couples and parties to a civil union as defined under 15 V.S.A. § 1201, with
9 regard to the offering of insurance benefits to a couple, a spouse, a party to a
10 civil union, or their family. The Commissioner shall adopt rules necessary to
11 carry out the purposes of this subdivision. The rules shall ensure that
12 insurance contracts and policies offered to married couples, spouses, and
13 families are also made available to parties to a civil union and their families.
14 The Commissioner may adopt by order standards and a process to bring the
15 forms currently on file and approved by the Department into compliance with
16 Vermont law. The standards and process may differ from the provisions
17 contained in chapter 101, subchapter 6, and sections ~~4062~~ 4026, 4201, 4515a,
18 4587, 4685, 4687, 4688, 4985, 5104, and 8005 of this title where, in the
19 Commissioner's opinion, the provisions regarding filing and approval of forms
20 are not desirable or necessary to effectuate the purposes of this section.

1 Sec. 10. 8 V.S.A. § 5104(a) is amended to read:

2 (a)(1) A health maintenance organization that has received a certificate of
3 authority under section 5102 of this title shall file and obtain approval of all
4 policy forms and rates as provided in sections ~~4062 and 4062a~~ 4026 and 4027
5 of this title. This requirement shall include the filing of administrative
6 retentions for any business in which the organization acts as a third party
7 administrator or in any other administrative processing capacity. The
8 Commissioner or the Green Mountain Care Board, as appropriate, may request
9 and shall receive any information that the Commissioner or the Board deems
10 necessary to evaluate the filing. In addition to any other information
11 requested, the Commissioner or the Board shall require the filing of
12 information on costs for providing services to the organization's Vermont
13 members affected by the policy form or rate, including Vermont claims
14 experience, and administrative and overhead costs allocated to the service of
15 Vermont members. Prior to approval, there shall be a public comment period
16 pursuant to section ~~4062~~ 4026 of this title. A health maintenance organization
17 shall file a summary of rate filings pursuant to section ~~4062~~ 4026 of this title.

18 (2) The Commissioner or the Board shall refuse to approve the form of
19 evidence of coverage, filing, or rate if it contains any provision that is unjust,
20 unfair, inequitable, misleading, or contrary to the law of the State or plan of
21 operation, or if the rates are excessive, inadequate, or unfairly discriminatory,

1 fail to protect the organization's solvency, or fail to meet the standards of
2 affordability, promotion of quality care, and promotion of access pursuant to
3 section ~~4062~~ 4026 of this title. No evidence of coverage shall be offered to
4 any potential member unless the person making the offer has first been
5 licensed as an insurance agent in accordance with chapter 131 of this title.

6 Sec. 11. 8 V.S.A. § 5115 is amended to read:

7 § 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE

8 ORGANIZATIONS

9 Any nonprofit health maintenance organization subject to this chapter shall
10 offer nongroup plans to individuals in accordance with 33 V.S.A. § 1811
11 without discrimination based on age, gender, industry, and medical history,
12 except as allowed by ~~subdivisions 4080g(b)(7)(B)(ii) and 4080g(c)(8)(B)(ii) of~~
13 ~~this title and by~~ 33 V.S.A. § 1811(f)(2)(B).

14 Sec. 12. 8 V.S.A. § 8083 is amended to read:

15 § 8083. EXTRATERRITORIAL JURISDICTION

16 No group long-term care insurance coverage may be offered to a resident of
17 this State under a group policy issued in another state to a group described in
18 subdivision 8082(4)(D) of this title, unless this State or another state having
19 statutory and regulatory long-term care insurance requirements substantially
20 similar to those adopted in this State has made a determination that such

1 requirements have been met. All other jurisdiction shall be pursuant to section
2 ~~4062~~ 4026 of this title.

3 Sec. 13. 8 V.S.A. § 8094(e) is amended to read:

4 (e) In the event of the death of the insured, this section shall not apply to
5 the remaining death benefit of a life insurance policy that accelerates benefits
6 for long-term care. In this situation, the remaining death benefits under these
7 policies shall be governed by sections 3731 and ~~4065~~ 4029 of this title. In all
8 other situations, this section shall apply to life insurance policies that
9 accelerate benefits for long-term care.

10 Sec. 14. 18 V.S.A. § 701 is amended to read:

11 § 701. DEFINITIONS

12 As used in this chapter:

13 * * *

14 (8) “Health ~~benefit~~ insurance plan” ~~shall have~~ has the same meaning as
15 ~~health~~ major medical insurance plan in ~~8 V.S.A. § 4088h~~ 8 V.S.A. § 4011.

16 * * *

17 Sec. 15. 18 V.S.A. § 706 is amended to read:

18 § 706. HEALTH INSURER PARTICIPATION

19 (a) As ~~provided for in 8 V.S.A. § 4088h~~ set forth in 8 V.S.A. § 4025, health
20 insurance plans shall be consistent with the Blueprint for Health as determined
21 by the Commissioner of Financial Regulation.

1 (b) Health insurers shall participate in the Blueprint for Health as a
2 condition of doing business in this State as provided for in this section and in
3 ~~8 V.S.A. § 4088h~~ 8 V.S.A. § 4025. ~~Under 8 V.S.A. § 4088h, the~~
4 ~~Commissioner of Financial Regulation may exclude or limit the participation~~
5 ~~of health insurers offering a stand-alone dental plan or specific disease or other~~
6 ~~limited benefit coverage in the Blueprint for Health. Health insurers shall be~~
7 ~~exempt from participation if the insurer only offers benefit plans that are paid~~
8 ~~directly to the individual insured or the insured's assigned beneficiaries and for~~
9 ~~which the amount of the benefit is not based upon potential medical costs or~~
10 ~~actual costs incurred.~~

11 Sec. 16. 18 V.S.A. § 4750 is amended to read:

12 § 4750. DEFINITIONS

13 As used in this chapter:

14 (1) "Health insurance plan" has the same meaning as in ~~8 V.S.A. §~~
15 ~~4089b~~ 8 V.S.A. § 4011.

16 * * *

17 Sec. 17. 18 V.S.A. § 9361(a) is amended to read:

18 (a) As used in this section, "distant site," "health care provider,"
19 "originating site," "store and forward," and "telemedicine" ~~shall~~ have the same
20 meanings as in ~~8 V.S.A. § 4100k~~ 8 V.S.A. § 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 8~~
4 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 32
19 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. chapter
2 18. All fees, fines, penalties, and similar assessments received by the Board in
3 the administration of its obligations, responsibilities, and duties shall be
4 credited to the Fund. The Fund may also be used by the Department of Health
5 to administer its obligations, responsibilities, and duties as required by chapter
6 221 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 As used in this chapter:

7 (1) "Health insurance" means any group or individual health care
8 benefit policy, contract, or other health benefit plan offered, issued, renewed,
9 or administered by any health insurer, including any health care benefit plan
10 offered, issued, renewed, or administered by any health insurance company,
11 any nonprofit hospital and medical service corporation, any dental service
12 corporation, or any managed care organization as defined in 18 V.S.A. § 9402.
13 The term includes comprehensive major medical policies, contracts, or plans;
14 short-term, limited-duration health insurance policies and contracts as defined
15 in ~~8 V.S.A. § 4084a~~ 8 V.S.A. § 4053; student health insurance policies; and
16 Medicare ~~supplemental~~ supplement insurance policies, contracts, or plans, but
17 does not include Medicaid or any other State health care assistance program in
18 which claims are financed in whole or in part through a federal program unless
19 authorized by federal law and approved by the General Assembly. The term
20 does not include policies issued for specified disease, accident, injury, hospital
21 indemnity, long-term care, disability income, or other limited benefit health

1 insurance policies, except that any policy providing coverage for dental
2 services shall be included.

3 * * *

4 Sec. 28. 33 V.S.A. § 1813(a)(2) is amended to read:

5 (2) In its review and approval of premium rates pursuant to ~~8 V.S.A.~~
6 ~~§ 4062~~ 8 V.S.A. § 4026, the Green Mountain Care Board shall ensure that:

7 * * *

8 Sec. 29. 33 V.S.A. § 1814 is amended to read:

9 § 1814. MAXIMUM OUT-OF-POCKET LIMIT FOR PRESCRIPTION

10 DRUGS IN BRONZE PLANS

11 (a)(1) Notwithstanding any provision of ~~8 V.S.A. § 4089i~~ 8 V.S.A. § 4092
12 to the contrary, the Green Mountain Care Board may approve modifications to
13 the out-of-pocket prescription drug limit established in ~~8 V.S.A. § 4089i~~ §
14 V.S.A. § 4092 for one or more bronze-level plans, as long as the Board finds
15 that the offering of such plans will not adversely impact the plan options
16 available to consumers with high prescription drug needs who benefit from the
17 out-of-pocket prescription drug limit established in ~~8 V.S.A. § 4089i~~ 8 V.S.A.
18 § 4092.

19 (2) The Department of Vermont Health Access shall certify at least two
20 standard bronze-level plans that include the out-of-pocket prescription drug
21 limit established in ~~8 V.S.A. § 4089i~~ 8 V.S.A. § 4092, as long as the plans

1 comply with federal requirements. Notwithstanding any provision of ~~§ V.S.A.~~
2 ~~§ 4089~~; § V.S.A. § 4092 to the contrary, the Department may certify one or
3 more bronze-level qualified health benefit plans with modifications to the out-
4 of-pocket prescription drug limit established in ~~§ V.S.A. § 4089~~; § V.S.A.
5 § 4092.

6 (b)(1) For each individual enrolled in a bronze-level qualified health
7 benefit plan for the previous two plan years who had out-of-pocket prescription
8 drug expenditures that met the out-of-pocket prescription drug limit established
9 in ~~§ V.S.A. § 4089~~; § V.S.A. § 4092 for the most recent plan year for which
10 information is available, the health insurer shall, absent an alternative plan
11 selection or plan cancellation by the individual, automatically reenroll the
12 individual in a bronze-level qualified health plan for the forthcoming plan year
13 with an out-of-pocket prescription drug limit at or below the limit established
14 in ~~§ V.S.A. § 4089~~; § V.S.A. § 4092.

15 (2) Prior to reenrolling an individual in a plan pursuant to subdivision
16 (1) of this subsection, the health insurer shall notify the individual of the
17 insurer's intent to reenroll the individual automatically in a bronze-level
18 qualified health plan for the forthcoming plan year with an out-of-pocket
19 prescription drug limit at or below the limit established in ~~§ V.S.A. § 4089~~; §
20 V.S.A. § 4092 unless the individual contacts the insurer to select a different
21 plan and of the availability of bronze-level plans with higher out-of-pocket

1 prescription drug limits. The health insurer shall collaborate with the
2 Department of Vermont Health Access and the Office of the Health Care
3 Advocate as to the notification's form and content.

4 Sec. 30. 33 V.S.A. § 4110(a)(6) is amended to read:

5 (6) ~~For purposes of~~ As used in this section, "dependent coverage" shall
6 ~~have~~ has the same meaning as in ~~8 V.S.A. § 4100b(a)(3)~~ 8 V.S.A. § 4058.

7 Sec. 31. ADDITIONAL CONFORMING REVISIONS

8 When preparing the Vermont Statutes Annotated for publication, the Office
9 of Legislative Counsel shall update any additional cross-references to statutes
10 in 8 V.S.A. chapter 107 that use the numbering scheme in effect prior to the
11 effective date of this act to conform to the new numbering scheme enacted by
12 this act.

13 * * * Interpretation and Rule Alignment * * *

14 Sec. 32. INTERPRETATION; RULE ALIGNMENT

15 (a) The purpose of this bill is to update and reorganize the health insurance
16 statutes. It is the intent of the General Assembly that the technical
17 amendments in this act shall not supersede substantive changes contained in
18 other bills enacted by the General Assembly during the current biennium.
19 Where possible, the amendments in this act shall be interpreted to be
20 supplemental to other amendments made to the sections of 8 V.S.A. chapter
21 107 using the numbering scheme in effect prior to the effective date of this act;

1 to the extent the provisions conflict, the substantive changes in other acts shall
2 take precedence over the technical changes in this act. Statutes added to or
3 amended in 8 V.S.A. chapter 107 that are enacted during the 2025–2026
4 biennium using the numbering scheme that existed prior to the effective date of
5 this act shall be codified in the corresponding statutes as renumbered by this
6 act.

7 (b) Rules adopted and orders, bulletins, forms, and guidance documents
8 issued by the Department of Financial Regulation, the Green Mountain Care
9 Board, and other State agencies that refer to statutes in 8 V.S.A. chapter 107
10 using the numbering that existed prior to the effective date of this act shall
11 continue to be valid following the effective date of this act until such time as
12 the relevant documents can be amended or updated to align with the
13 renumbering of that chapter by this act.

14 * * * Effective Date * * *

15 Sec. 33. EFFECTIVE DATE

16 This act shall take effect on January 1, 2026.