

1 Introduced by Committee on Health Care

2 Date:

3 Subject: Health; health insurance; Medicaid; mental health; prior authorization

4 Statement of purpose of bill as introduced: This bill proposes to address
5 several health care-related topics, including mental health, hospital budget
6 review, expansion of VPharm coverage for certain beneficiaries, and the
7 review and modification of prior authorization requirements.

8 An act relating to miscellaneous health care provisions

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

10 * * * Mental Health * * *

11 Sec. 1. 18 V.S.A. § 9375 is amended to read:

12 § 9375. DUTIES

13 (a) The Board shall execute its duties consistent with the principles
14 expressed in section 9371 of this title.

15 (b) The Board shall have the following duties:

16 * * *

17 (15) ~~Collect and review data from each psychiatric hospital licensed~~
18 ~~pursuant to chapter 43 of this title, which may include data regarding a~~
19 ~~psychiatric hospital's scope of services, volume, utilization, discharges, payer~~

1 ~~mix, quality, coordination with other aspects of the health care system, and~~
2 ~~financial condition. The Board's processes shall be appropriate to psychiatric~~
3 ~~hospitals' scale and their role in Vermont's health care system, and the Board~~
4 ~~shall consider ways in which psychiatric hospitals can be integrated into~~
5 ~~systemwide payment and delivery system reform. [Repealed.]~~

6 * * *

7 Sec. 2. 18 V.S.A. § 9451 is amended to read:

8 § 9451. DEFINITIONS

9 As used in this subchapter:

10 (1) "Hospital" means a ~~general~~ hospital licensed under chapter 43 of this
11 title, except a hospital that is conducted, maintained, or operated by the State
12 of Vermont.

13 * * *

14 Sec. 3. HOSPITAL BUDGET REVIEW; TRANSITIONAL PROVISIONS

15 (a) For any hospital whose budget newly comes under Green Mountain
16 Care Board review as a result of the amendments to 18 V.S.A. § 9451 made by
17 Sec. 2 of this act, the Board may increase the scope of the budget review
18 process set forth in 18 V.S.A. chapter 221, subchapter 7 for the hospital
19 gradually, provided the Board conducts a full review of the hospital's proposed
20 budget not later than the budget for hospital fiscal year 2024. **In developing**
21 **its process for transitioning to a full review of the hospital's budget, the**

1 **Board shall collaborate with the hospital and with the Agency of Human**
2 **Services to prevent duplication of efforts and of reporting requirements.**
3 **The Board and the Agency shall jointly determine which documents**
4 **submitted by the hospital to the Agency are appropriate for the Agency to**
5 **share with the Board.**

6 (b) In determining whether and to what extent to exercise discretion in the
7 scope of its budget review for a hospital new to the Board’s hospital budget
8 review process, the Board shall consider:

9 (1) any existing fiscal oversight of the hospital by the Agency of Human
10 Services, including any memoranda of understanding between the hospital and
11 the Agency; and

12 (2) the fiscal pressures on the hospital as a result of the COVID-19
13 pandemic.

14 ~~**(c) A hospital whose budget newly comes under Green Mountain Care**~~
15 ~~**Board review as a result of the amendments to 18 V.S.A. § 9451 made by**~~
16 ~~**Sec. 2 of this act shall share with the Board copies of all fiscal documents**~~
17 ~~**that the hospital is required to share with the Agency of Human Services**~~
18 ~~**and the Board shall protect those documents from public disclosure to the**~~
19 ~~**same or greater extent than they are protected by the Agency of Human**~~
20 ~~**Services.**~~

21 Sec. 4. MENTAL HEALTH INTEGRATION COUNCIL; REPORT

1 (a) Creation. There is created the Mental Health Integration Council for
2 the purpose of helping to ensure that all sectors of the health care system
3 actively participate in the State’s principles for mental health integration
4 established pursuant to 18 V.S.A. § 7251(4) and (8) and as envisioned in the
5 Department of Mental Health’s 2020 report “Vision 2030: A 10-Year Plan
6 for an Integrated and Holistic System of Care.”

7 (b) Membership.

8 (1) The Council shall be composed of the following members:

9 (A) the Commissioner of Mental Health or designee;

10 (B) the Commissioner of Health or designee;

11 (C) the Commissioner of Vermont Health Access or designee;

12 (D) the Commissioner for Children and Families or designee;

13 (E) the Commissioner of Corrections or designee;

14 (F) the Commissioner of Financial Regulation or designee;

15 (G) the Director of Health Care Reform or designee;

16 (H) the Executive Director of the Green Mountain Care Board or
17 designee;

18 (I) the Secretary of Education or designee;

19 (J) a representative, appointed by the Vermont Medical Society;

20 (K) a representative, appointed by the Vermont Association for
21 Hospitals and Health Systems;

1 (L) a representative, appointed by Vermont Care Partners;

2 (M) a representative, appointed by the Vermont Association of
3 Mental Health and Addiction Recovery;

4 (N) a representative, appointed by Bi-State Primary Care;

5 (O) a representative, appointed by the University of Vermont
6 Medical School;

7 (P) the Chief Executive Officer of OneCare Vermont or designee;

8 (Q) the Health Care Advocate established pursuant to 18 V.S.A.
9 § 9602;

10 (R) the Mental Health Care Ombudsman established pursuant to
11 18 V.S.A. § 7259;

12 (S) a representative, appointed by the insurance plan with the
13 largest number of covered lives in Vermont;

14 (T) two persons who have received mental health services in
15 Vermont, appointed by Vermont Psychiatric Survivors, including one person
16 who has delivered peer services;

17 (U) one family member of a person who has received mental health
18 services, appointed by the Vermont chapter of National Alliance on Mental
19 Illness; and

1 (V) one family member of a child who has received mental health
2 services, appointed by the Vermont Federation of Families for Children’s
3 Mental Health.

4 (2) The Council may create subcommittees comprising the Council’s
5 members for the purpose of carrying out the Council’s charge.

6 (c) Powers and duties. The Council shall address the integration of
7 mental health in the health care system including:

8 (1) identifying obstacles to the full integration of mental health into a
9 holistic health care system and identifying means of overcoming those
10 barriers;

11 (2) helping to ensure the implementation of existing law to establish
12 full integration within each member of the Council’s area of expertise;

13 (3) establishing commitments from non-state entities to adopt practices
14 and implementation tools that further integration;

15 (4) proposing legislation where current statute is either inadequate to
16 achieve full integration or where it creates barriers to achieving the principles
17 of integration; and

18 (5) fulfilling any other duties the Council deems necessary to achieve
19 its objectives.

20 (d) Assistance. The Council shall have the administrative, technical, and
21 legal assistance of Department of Mental Health.

1 (e) Report.

2 (1) On or before December 15, 2021, the Commissioners of Mental
3 Health and of Health shall report on the Council’s progress to the Joint
4 Health Reform Oversight Committee.

5 (2) On or before January 15, 2023, the Council shall submit a final
6 written report to the House Committee on Health Care and to the Senate
7 Committee on Health and Welfare with its findings and any
8 recommendations for legislative action, including a recommendation as to
9 whether the term of the Council should be extended.

10 (f) Meetings.

11 (1) The Commissioner of Mental Health shall call the first meeting of
12 the Council.

13 (2) The Commissioner of Mental Health shall serve as chair. The
14 Commissioner of Vermont Health Access shall serve as vice chair.

15 (3) The Council shall meet bimonthly between July 1, 2020 and
16 January 1, 2023.

17 (4) The Council shall cease to exist on July 30, 2023.

18 (g) Compensation and reimbursement. Members of the Council shall be
19 entitled to per diem compensation and reimbursement of expenses as
20 permitted under 32 V.S.A. § 1010 for not more than eight meetings. These

1 payments shall be made from monies appropriated to the Department of
2 Mental Health.

3 Sec. 5. BRATTLEBORO RETREAT; CONDITIONS OF STATE FUNDING

4 (a) Findings. In recognition of the significant need within Vermont’s
5 health care system for inpatient psychiatric capacity, the General Assembly has
6 made significant investments in capital funds and in rate adjustments to assist
7 the Brattleboro Retreat in its financial sustainability. The General Assembly
8 has a significant interest in the quality of care provided at the Brattleboro
9 Retreat, which provides 100 percent of the State’s inpatient psychiatric care for
10 children and youths, and more than half of the adult inpatient care, of which
11 approximately 50 percent is paid for with State funding.

12 (b) Conditions. As a condition of further State funding, the General
13 Assembly requires that the following quality oversight measures be
14 implemented by the Brattleboro Retreat under the oversight of the Department
15 of Mental Health:

16 (1) Give authority and access to a mental health patient representative
17 pursuant to 18 V.S.A. § 7253(1)(J) to provide services on all inpatient units at
18 the Brattleboro Retreat that operate with the support of State funding,
19 regardless of whether a patient is in the custody or temporary custody of the
20 Commissioner.

1 ~~guidelines and only coverage for maintenance drugs for enrolled individuals~~
2 ~~whose income is greater than 150 percent and no greater than 225 percent of~~
3 ~~the federal poverty guidelines.~~

4 (b) Any individual with income ~~no~~ not greater than 225 percent of the
5 federal poverty guidelines participating in Medicare Part D, having secured the
6 low income subsidy if the individual is eligible and meeting the general
7 eligibility requirements established in section 2072 of this title, shall be
8 eligible for VPharm.

9 * * *

10 Sec. 7. SUPPLEMENTAL VPHARM COVERAGE; GLOBAL

11 COMMITMENT WAIVER RENEWAL; RULEMAKING

12 (a) The Agency of Human Services shall request approval from the Centers
13 for Medicare and Medicaid Services to include in Vermont's Global
14 Commitment to Health Section 1115 Medicaid demonstration renewal an
15 expansion of the VPharm coverage for Vermont Medicare beneficiaries with
16 income between 150 and 225 percent of the federal poverty level (FPL) to be
17 the same as the pharmaceutical coverage under the Medicaid program.

18 (b) Within 30 days following approval of the VPharm coverage expansion
19 by the Centers for Medicare and Medicaid Services, the Agency of Human
20 Services shall commence the rulemaking process in accordance with 3 V.S.A.
21 chapter 25 to amend its rules accordingly.

1 Health and Welfare and on Finance, and the Green Mountain Care Board
2 opportunities to increase the use of real-time decision support tools embedded
3 in electronic health records to complete prior authorization requests for
4 imaging and pharmacy services, including options that minimize cost for both
5 health care providers and health insurers.

6 Sec. 10. PRIOR AUTHORIZATION; ALL-PAYER ACO MODEL; REPORT

7 The Green Mountain Care Board, in consultation with the Department of
8 Vermont Health Access, certified accountable care organizations, payers
9 participating in the All-Payer ACO Model, health care providers, and other
10 interested stakeholders, shall evaluate opportunities for and obstacles to
11 aligning and reducing prior authorization requirements under the All-Payer
12 ACO Model as an incentive to increase scale, as well as potential opportunities
13 to waive additional Medicare administrative requirements in the future. On or
14 before January 15, 2022, the Board shall submit the results of its evaluation to
15 the House Committee on Health Care and the Senate Committees on Health
16 and Welfare and on Finance.

17 Sec. 11. PRIOR AUTHORIZATION; GOLD CARDING; PILOT

18 PROGRAM; REPORTS

19 (a) On or before January 15, 2022, each health insurer with more than
20 1,000 covered lives in this State for major medical health insurance shall
21 implement a pilot program that automatically exempts from or streamlines

1 certain prior authorization requirements for a subset of participating health care
2 providers, some of whom shall be primary care providers.

3 (b) Each insurer shall make available electronically, including on a publicly
4 available website, details about its prior authorization exemption or
5 streamlining program, including:

6 (1) the medical procedures or tests that are exempt from or have
7 streamlined prior authorization requirements for providers who qualify for the
8 program;

9 (2) the criteria for a health care provider to qualify for the program;

10 (3) the number of health care providers who are eligible for the program,
11 including their specialties and the percentage who are primary care providers;
12 and

13 (4) whom to contact for questions about the program or about
14 determining a health care provider’s eligibility for the program.

15 (c) On or before January 15, 2023, each health insurer required to
16 implement a prior authorization pilot program under this section shall report to
17 the House Committee on Health Care, the Senate Committees on Health and
18 Welfare and on Finance, and the Green Mountain Care Board:

19 (1) the results of the pilot program, including an analysis of the costs
20 and savings;

1 (2) prospects for the health insurer continuing or expanding the
2 program;

3 (3) feedback the health insurer received about the program from the
4 health care provider community; and

5 (4) an assessment of the administrative costs to the health insurer of
6 administering and implementing prior authorization requirements.

7 Sec. 12. PRIOR AUTHORIZATION; PROVIDER EXEMPTIONS; REPORT

8 On or before September 30, 2021, the Department of Vermont Health
9 Access shall provide findings and recommendations to the House Committee
10 on Health Care, the Senate Committees on Health and Welfare and on Finance,
11 and the Green Mountain Care Board regarding clinical prior authorization
12 requirements in the Vermont Medicaid program, including:

13 (1) a description and evaluation of the outcomes of the prior
14 authorization waiver pilot program for Medicaid beneficiaries attributed to the
15 Vermont Medicaid Next Generation ACO Model;

16 (2)(A) for each service for which Vermont Medicaid requires prior
17 authorization:

18 (i) the denial rate for prior authorization requests; and

19 (ii) the potential for harm in the absence of a prior authorization
20 requirement;

1 (1) Sec. 4 (Mental Health Integration Council; report) shall take effect
2 on July 1, 2020;

3 (2) Sec. 6 (33 V.S.A. § 2073) shall take effect on the later of January 1,
4 2022 or upon approval of the VPharm coverage expansion by the Centers for
5 Medicare and Medicaid Services; and

6 (3) in Sec. 8, 18 V.S.A. § 9418b(h)(2) (attestation of prior authorization
7 requirement review) shall take effect on July 1, 2021.