

Green Mountain Care Board
144 Main Street
Montpelier, VT 05620

Department of Financial Regulation
89 Main Street
Montpelier, VT 05620

To: House Committee on Appropriations, House Committee on Health Care,
House Committee on Ways and Means, Senate Committee on Appropriations,
Senate Committee on Health and Welfare, Senate Committee on Finance

From: Kevin Mullin, Chair, Green Mountain Care Board
Michael Pieciak, Commissioner, Department of Financial Regulation

Date: February 6, 2018

Re: Association Health Plans; Short-term, Limited Duration Insurance

The Green Mountain Care Board and the Department of Financial Regulation (DFR) have brought together a working group to address current federal issues around health insurance. The group has been working to specifically address the *Executive Order on Promoting Healthcare Choice and Competition Across the United States*. This letter lays out a consensus for a proposed legislative response to the Executive Order.

Executive Order #13813 instructs “the Secretary of Labor... to consider proposing regulations or revising guidance, consistent with law, to expand access to health coverage by allowing more employers to form AHPs.”

In response to the potential expansion of Association Health Plans (AHPs) into the Vermont insurance market, the working group proposes a statutory change to explicitly give DFR rulemaking authority over AHPs and other Multiple Employer Welfare Arrangements (MEWAs) as defined in the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq. Because the federal change has the potential to result in different insurance options for small employers that now enroll in qualified health plans under 33 V.S.A. §1811, it is important to solidify DFR’s authority to promulgate rules related to AHPs. DFR and other stakeholders believe it is in the best interest of the State to wait for federal rules that change how AHPs are treated to be finalized before taking specific actions to regulate AHPs, thereby avoiding potential issues around federal preemption. Proposed legislation granting DFR rulemaking authority over AHPs and related MEWA entities is consistent with other statutory authority granted to insurance regulators throughout the United States.

The Executive Order also instructs the Secretaries of Treasury, Labor, and Health and Human Services to consider expanding the availability of Short Term Limited Duration Insurance (STLDI). Specifically, the Order calls for “allowing such insurance to cover longer periods and be renewed by the consumer.” Although as of February 5, 2018, a proposed rule on STLDI has not been issued, the potential for these plans to proliferate the Vermont market, pending a presumed expansion under federal regulation, could negatively impact the Vermont Health Insurance market. Currently, federal regulations allow STLDI products to be sold for a maximum policy duration of three months, require that they be non-renewable, and contain specific disclosure requirements. Although the State does not have any STLDI plans available in the commercial market at this time, the working group proposes that Vermont adopt the current federal



limits on STLDI plans into state law. If the current limits were adopted, the proposed federal expansion of regulatory limits would have a de minimis effect on Vermont's insurance market.

The participating state agencies, along with key stakeholders, appreciate the Committee's dedication to addressing these timely issues to help protect and ensure the continued stability of the Vermont Health Insurance market.

Members of the Working Group:

Green Mountain Care Board
Department of Vermont Health Access
Office of the Health Care Advocate
MVP Health Care
Bi-State Primary Care

Department of Financial Regulation
Director of Health Care Reform
Blue Cross & Blue Shield of Vermont
Vermont Association of Hospitals and Health Systems
Vermont Chamber of Commerce

