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## Vermont Department of Financial Regulation

### Division of Insurance

#### Insurance Bulletin No. 180

#### Clarification regarding health insurance coverage for services described in Act 39 of 2013.

The purpose of this bulletin is to provide clarification to health plans, as defined in 18 V.S.A. §9418(a)(8), regarding coverage by health plans of services described in Act 39 of 2013, An Act Relating to Patient Choice and Control at End of Life (Act 39).

Act 39 provides immunity for physicians from civil or criminal liability or professional disciplinary action if the physician prescribes to a patient with a terminal condition medication to be self-administered for the purpose of hastening the patient's death and the physician provides certain other services in connection with the prescription of such medication.

The purpose of Act 39 is to provide patients with choice at the end of life. The choice provided in Act 39 is not meaningful unless the services and prescription contemplated by Act 39 are affordable. For many patients, having these services and prescription covered by insurance is the only way to make them affordable. Such coverage is consistent with the patient's bill of rights for palliative care and pain management, codified in 18 V.S.A. § 1871. Section 1871 provides a right for patients to obtain certain treatments, care, and services, all of which are typically covered by health insurance policies. To carry out the intent of the Legislature in passing Act 39, it is essential that services contemplated by Act 39 not be excluded from coverage.

It is therefore Department's position that coverage by health plans of the services described in Act 39, when performed in accordance with Act 39, is necessary to promote quality care, promote access to health care, and to not be unjust, unfair, inequitable, and to not be contrary to the laws of this state, as required by 8 V.S.A. § 4062. Policy forms that exclude such services will not be approved by the Department. Further, such services, when performed in accordance with Act 39, represent medically necessary care as that term is defined in Department Rule H-2009-03, and neither the services nor the pharmaceuticals prescribed are experimental or investigational.

  
Susan L. Donegan, Commissioner

10/25/13  
Date

