

1 S.4

2 Introduced by Senators Ashe, Lyons, and Pollina

3 Referred to Committee on Health and Welfare

4 Date: January 10, 2017

5 Subject: Health; accountable care organizations; confidential or proprietary  
6 information

7 Statement of purpose of bill as introduced: This bill proposes to identify the  
8 circumstances under which the governing body of an accountable care  
9 organization may meet in private.

10 An act relating to publicly accessible meetings of an accountable care  
11 organization's governing body

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

13 ~~Sec. 1. 18 V.S.A. § 9382 is amended to read:~~

14 § 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

15 (a) In order to be eligible to receive payments from Medicaid or  
16 commercial insurance through any payment reform program or initiative,  
17 including an all-payer model, each accountable care organization shall obtain  
18 and maintain certification from the Green Mountain Care Board. The Board  
19 shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and  
20 ~~processes for certifying accountable care organizations. To the extent~~

1 ~~permitted under federal law, the Board shall ensure these rules anticipate and~~  
2 accommodate a range of ACO models and sizes, balancing oversight with  
3 support for innovation. In order to certify an ACO to operate in this State, the  
4 Board shall ensure that the following criteria are met:

5 \* \* \*

6 (13) meetings of the ACO's governing body include a public session at  
7 which members of the public are provided an opportunity to comment and at  
8 which all business that is not confidential or proprietary is conducted and  
9 members of the public are provided an opportunity to comment, except  
10 business related to contracts, to civil or criminal liability, to personnel matters,  
11 or to information that reasonably could be considered a trade secret as defined  
12 in 9 V.S.A. § 4601;

13 \* \* \*

14 Sec. 2. EFFECTIVE DATE

15 ~~This act shall take effect on January 1, 2018.~~

*Sec. 1. 18 V.S.A. § 9382 is amended to read:*

*§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS*

*(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the*

*Board shall ensure that the following criteria are met:*

*\* \* \**

*(13) meetings of the ACO's governing body include a public session at which all business that is not confidential or proprietary is conducted and members of the public are provided an opportunity to comment comply with the provisions of section 9572 of this title;*

*\* \* \**

*Sec. 2. 18 V.S.A. chapter 227 is amended to read:*

*CHAPTER 227. ALL-PAYER MODEL AND ACCOUNTABLE CARE ORGANIZATIONS*

*Subchapter 1. All-Payer Model*

*§ 9551. ALL-PAYER MODEL*

*\* \* \**

*Subchapter 2. Accountable Care Organizations*

*§ 9571. DEFINITIONS*

*As used in this subchapter:*

*(1) "Accountable care organization" and "ACO" means an organization of health care providers that has a formal legal structure, is identified by a federal Taxpayer Identification Number, and agrees to be accountable for the quality, cost, and overall care of the patients assigned to it.*

*(2) "Health care provider" means a person, partnership, or corporation, including a health care facility, that is licensed, certified, or otherwise authorized by law to provide professional health care services in this State to an individual during that individual's medical care, treatment, or confinement.*

*§ 9572. MEETINGS OF AN ACCOUNTABLE CARE ORGANIZATION'S GOVERNING BODY*

*(a) Application. This section shall apply to all regular, special, and emergency meetings of an accountable care organization's governing body, whether in person or by electronic means, as well as to any other assemblage of ~~governing body members at which binding action is taken~~ members of the ACO's governing body at which binding action is taken on behalf of the ACO. For purposes of this section, the term "ACO's governing body" shall also include the governing body of any organization acting as a coordinating entity for two or more ACOs.*

(b) Public meetings; exceptions. Meetings of an accountable care organization's governing body shall be open to the public and shall provide members of the public an opportunity to comment, except that the ACO's governing body may meet in executive session to consider business related to the following:

(1) contracts or contract negotiations for which premature general public knowledge would reasonably place the ACO or another person at a substantial disadvantage;

(2) pending or probable prosecution or civil litigation to which the ACO is or is likely to be a party;

(3) personnel matters;

(4) information that reasonably could be considered a trade secret, as defined in 1 V.S.A. § 317(c)(9);

(5) confidential attorney-client communications;

(6) information prohibited from public disclosure by the terms of an enforceable data use contract to which the ACO is bound; and

(7) information prohibited from public disclosure by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or by any other State or federal law.

(c) Notice. An accountable care organization shall make its governing board's body's meeting schedule available to the public by posting notice of the time and place of each meeting on the ACO's website at least one week before the meeting and the agenda for each meeting at least 48 hours before the meeting, except that if an unforeseen occurrence or condition requires the governing body's immediate attention at an emergency meeting, the ACO shall provide public notice as soon as possible before the meeting occurs.

(d)(1) Minutes and recordings. All portions of each meeting of an ACO's governing body that are open to the public shall either be recorded or minutes shall be taken, and the recordings and minutes shall be ~~made available to the public~~ posted on the ACO's website within five business days following the meeting.

(2) Meeting minutes shall include the names of all governing body members present at the meeting in person or by electronic means, the names of any other individuals who participated in the meeting, a summary of any public comments provided at the meeting, and all actions taken or considered by the governing body during the meeting.

(e) Participation by electronic or other means.

(1) One or more members of an ACO's governing body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location.

(2) Any member of the governing body attending a meeting by electronic or other means may participate fully in discussing the governing body's business and voting to take an action, but any vote of the governing body that is not unanimous shall be taken by roll call.

(3) Each member of the governing body who attends a meeting without being physically present at a designated meeting location shall:

(A) identify himself or herself when the meeting is convened; and

(B) be able to hear the conduct of the meeting and be heard throughout the meeting.

(4) If a quorum or more of the members of the governing body attend a meeting without being physically present at a designated meeting location, the agenda required to be posted pursuant to subsection (c) of this section shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the governing body or one or more members of the ACO's staff shall be present at each designated meeting location.

**Sec. 3. EFFECTIVE DATE**

This act shall take effect on ~~January 1, 2018~~ July 1, 2017.