

GMCB review of ACO budgets

1 Sec. 1. 18 V.S.A. chapter 214 is added to read:

2 **CHAPTER 214. ACCOUNTABLE CARE ORGANIZATIONS**

3 **Subchapter 1. General Provisions**

4 **§ 9201. DEFINITION**

5 As used in this chapter, “accountable care organization” means a group of health care
6 providers who work together to coordinate and provide high-quality care for the patients
7 they serve.

8 **Subchapter 2. Budget Review**

9 **§ 9211. POWERS AND DUTIES**

10 (a) The Green Mountain Care shall review and approve the budget for each
11 accountable care organization operating in this State. The Board shall:
12 (1) adopt uniform formats that accountable care organizations shall use to report
13 financial, scope-of-services, and utilization data and information;
14 (2) designate a data organization with which accountable care organizations shall
15 file financial, scope-of-services, and utilization data and information; and
16 (3) designate a data organization or organizations to process, analyze, store, or
17 retrieve data or information.

18 **(b) The Board shall review consumer complaints, patient satisfaction surveys,**
19 **and other materials that enable the Board to determine access to and quality of**
20 **health care services delivered by an accountable care organization.**

21 (c) The Board may adopt rules under 3 V.S.A. chapter 25 to carry out the purposes
22 of this subchapter.

1 § 9212. ACCOUNTABLE CARE ORGANIZATION DUTIES

2 (a) Accountable care organizations shall adopt a fiscal year that shall begin on
3 October 1.

4 (b) Accountable care organizations shall file the following information at the time
5 and place and in the manner established by the Board:
6 (1) a budget for the forthcoming fiscal year;
7 (2) financial information, including costs of operation, revenues, assets, liabilities,
8 fund balances, other income, rates, charges, units of services, and wage and salary data;
9 (3) scope-of-service and volume-of-service information, including inpatient
10 services, outpatient services, community-based services, and other services by type of
11 service provided;

12 (4) utilization information;
13 (5) patient attribution information;
14 **(6) patient satisfaction and other outcome measures;**
15 (7) any new services or programs proposed for the forthcoming fiscal year; and
16 (8) such other information as the Board may require.

17 § 9213. BUDGET REVIEW

18 (a) The Board shall conduct reviews of each accountable care organization's
19 proposed budget based on the information provided pursuant to this subchapter and in
20 accordance with a schedule established by the Board.

21 (b) In conjunction with budget reviews, the Board shall:
22 (1) review utilization information;

- 1 (2) consider the goals and recommendations of the health resource allocation
- 2 plan;
- 3 (3) consider the expenditure analysis for the previous year and the proposed
- 4 expenditure analysis for the year under review;
- 5 (4) consider any reports from professional review organizations;
- 6 (5) solicit public comment on all aspects of accountable care organization costs
- 7 and use and on the budgets proposed by each accountable care organization;
- 8 (6) meet with each accountable care organization to review and discuss its budget
- 9 for the forthcoming fiscal year;
- 10 (7) give public notice of the meetings with accountable care organizations, and
- 11 invite the public to attend and to comment on the proposed budgets;
- 12 (8) consider the role, if any, of the Medicaid cost-shift; and
- 13 (9) require each accountable care organization to provide information on
- 14 administrative costs, as defined by the Board.
- 15 (c) Accountable care organization budgets established under this section shall:
 - 16 (1) be consistent with the Health Resource Allocation Plan;
 - 17 (2) take into consideration national, regional, or instate peer group norms,
 - 18 according to indicators, ratios, and statistics established by the Board;
 - 19 (3) promote efficient and economic operation of the accountable care
 - 20 organization; and
 - 21 (4) reflect budget performances for prior years.
- 22 (d)(1) Annually, the Board shall review the proposed budget for each accountable
- 23 care organization by September 15, followed by a written decision approving or

1 disapproving the budget by October 1. Each accountable care organization shall operate
2 within the budget established under this section.

3 (2)(A) It is the General Assembly's intent that accountable care organization cost
4 containment conduct is afforded state action immunity under applicable federal and
5 State antitrust laws, if:

- 6 (i) the Board requires or authorizes the conduct in any accountable care
7 organization budget established by the Board under this section;
8 (ii) the conduct is in accordance with standards and procedures prescribed
9 by the Board; and
10 (iii) the conduct is actively supervised by the Board.

11 (B) An accountable care organization's violation of the Board's standards and
12 procedures shall be subject to enforcement pursuant to subsection (h) of this section.

13 (e) The Board may establish a process to define, on an annual basis, criteria for
14 accountable care organization to meet, such as utilization and inflation benchmarks. The
15 Board may waive one or more of the review processes listed in subsection (b) of this
16 section.

17 (f) The Board may, upon application, adjust a budget established under this section
18 upon a showing of need based upon exceptional or unforeseen circumstances in
19 accordance with the criteria and processes established under section 9405 of this title.

20 (g) The Board may request, and an accountable care organization shall provide,
21 information determined by the Board to be necessary to determine whether the
22 accountable care organization is operating within a budget established under this section.

1 (h)(1) If an accountable care organization violates a provision of this section, the
2 Board may maintain an action in the Superior Court of the county in which the
3 accountable care organization is located to enjoin, restrain, or prevent such violation.

4 (2)(A) After notice and an opportunity for hearing, the Board may impose on a
5 person who knowingly violates a provision of this subchapter, or a rule adopted pursuant
6 to this subchapter, a civil administrative penalty of no more than \$40,000.00, or in the
7 case of a continuing violation, a civil administrative penalty of no more than
8 \$100,000.00 or one-tenth of one percent of the gross annual revenues of the accountable
9 care organization, whichever is greater. This subdivision shall not apply to violations of
10 subsection (d) of this section caused by exceptional or unforeseen circumstances.

11 (B)(i) The Board may order an accountable care organization to:

12 (I)(aa) cease material violations of this subchapter or of a regulation or
13 order issued pursuant to this subchapter; or
14 (bb) cease operating contrary to the budget established for the
15 accountable care organization under this section, provided such a deviation from the
16 budget is material; and

17 (II) take such corrective measures as are necessary to remediate the
18 violation or deviation and to carry out the purposes of this subchapter.

19 (ii) Orders issued under this subdivision (2)(B) shall be issued after notice
20 and an opportunity to be heard, except where the Board finds that a accountable care
21 organization's financial or other emergency circumstances pose an immediate threat of
22 harm to the public or to the financial condition of the accountable care organization.
23 Where there is an immediate threat, the Board may issue orders under this subdivision

1 (2)(B) without written or oral notice to the accountable care organization. Where an
2 order is issued without notice, the accountable care organization shall be notified of the
3 right to a hearing at the time the order is issued. The hearing shall be held within 30
4 days of receipt of the accountable care organization's request for a hearing, and a
5 decision shall be issued within 30 days after conclusion of the hearing. The Board may
6 increase the time to hold the hearing or to render the decision for good cause shown.
7 Accountable care organizations may appeal any decision in this subsection to Superior
8 Court. Appeal shall be on the record as developed by the Board in the administrative
9 proceeding and the standard of review shall be as provided in 8 V.S.A. § 16.

10 (3)(A) The Board shall require the officers and directors of an accountable care
11 organization to file under oath, on a form and in a manner prescribed by the Board, any
12 information designated by the Board and required pursuant to this subchapter. The
13 authority granted to the Board under this subsection is in addition to any other authority
14 granted to the Board under law.

15 (B) A person who knowingly makes a false statement under oath or who
16 knowingly submits false information under oath to the Board or to a hearing officer
17 appointed by the Board or who knowingly testifies falsely in any proceeding before the
18 Board or a hearing officer appointed by the Board shall be guilty of perjury and
19 punished as provided in 13 V.S.A. § 2901.

20 § 9214. INFORMATION AVAILABLE TO THE PUBLIC

21 All information required to be filed under this subchapter shall be made available to
22 the public upon request, provided that individual patients or health care practitioners
23 shall not be directly or indirectly identifiable.