



January 28, 2016

## **S. 256 – An Act Relating to Extending the Moratorium on Home Health Agency Certificates of Need**

**Who are the Sponsors?** Senators Ginny Lyons, Claire Ayer, Robert Starr, and Rich Westman

**What Does the Bill Do?** This bill would extend, until January 1, 2020, the moratorium on home health agency certificates of need (CON) and require consideration of the Green Mountain Care Board's health care reform initiatives if lifting the moratorium prior to that date.

**Background** - Since 2010, there has been a moratorium on granting a Certificate of Need (CON) to a new home care and hospice agency. The current moratorium, which sunsets January 1, 2017, was established to give the state and the home care industry time to refine the standards under which home health applications are measured. That job is not complete and there still is no definition for unmet need, a key criterion to determine whether a new home care agency is needed. Currently, there are little to no objective standards on how to measure unmet need, how to define geographical service areas, how to measure whether the "market" for additional services is sufficient to support additional agencies, or how to evaluate adverse impacts, not only to existing agencies, but also on the communities and patients they serve. In 2013, when the General Assembly extended the moratorium, the law also stated that the moratorium would give the Green Mountain Care Board time to implement its health planning function as it relates to home health agencies.

**Why is the Bill Needed?** Vermont is in the middle of dramatic change in health care delivery. The state is moving toward more cooperation among providers (as evidenced by the new Accountable Care Organizations, All-Payer Waiver application, the state's Health Care Innovations Project and Vermont's Blueprint for Health) and population-based payments. To open the market to new home care agencies seems inconsistent with the goals of health care reform that encourages more integration and less fragmentation.

**Current System** - The existing home health system is currently providing high levels of service to the Medicare, Medicaid, private insurance and private pay populations in need of home health services at one of the lowest average costs per visit in the nation. It provides a comprehensive array of services reaching every town in the state, which are generally well coordinated with other community health care providers and social service agencies. It appears that the existing home health care system has the commitment and present capacity to provide universal access to medically necessary home health services for all Vermonters regardless of ability to pay or location of residence.

Vermont is a very rural state, with a population thinly distributed throughout the state, posing special challenges in the delivery of home health services.

Vermont, as the rest of the nation, is facing extraordinarily difficult and fiscally challenging times; significant cuts in Medicare and Medicaid rates for home care have already taken place and even greater cuts are looming, all requiring even greater reliance on community resources and ingenuity to do more with less.

**Who Supports the Legislation?** The 10 Visiting Nurse Associations and nonprofit hospices strongly support the bill. According to their Vermont lobbyist, Bayada Nursing, the one for-profit Medicare-certified homecare agency in the state, is neutral on this legislation. We don't represent Bayada so we encourage you to involve Bayada in the discussion in your committee to get their formal position.

**Who Opposes this legislation?** Three years ago, TLC, a private duty nurse service based in Burlington, opposed the moratorium. That organization most likely would oppose this bill. There may be other private home health nursing organizations that oppose the bill but we don't know of any others at this time.

**What is the Green Mountain Care Board's Position?** The Green Mountain Care Board was neutral on this legislation in the past.

Thank you for considering this information. We look forward to making a formal presentation on the bill in the Senate Health and Welfare Committee.

*Questions? Please call Peter Cobb at VNAVt at 802-229-0579 (extension 17), or email [vnavt@comcast.net](mailto:vnavt@comcast.net)*