

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 * * * Green Mountain Care Board * * *

2 Sec. 1. 18 V.S.A. § 9374 is amended to read:

3 § 9374. BOARD MEMBERSHIP; AUTHORITY

4 * * *

5 (h)(1) Except as otherwise provided in subdivision (2) of this subsection,
6 expenses incurred to obtain information, analyze expenditures, review hospital
7 budgets, conduct proceedings authorized by sections 9374a–9374c of this title,
8 and for any other contracts authorized by the Board shall be borne as follows:

9 (A) 40 percent by the State from ~~state~~ State monies;

10 (B) 15 percent by the hospitals;

11 (C) 15 percent by nonprofit hospital and medical service corporations
12 licensed under 8 V.S.A. chapter 123 or 125;

13 (D) 15 percent by health insurance companies licensed under
14 8 V.S.A. chapter 101; and

15 (E) 15 percent by health maintenance organizations licensed under
16 8 V.S.A. chapter 139.

17 * * *

18 ~~(i) In addition to any other penalties and in order to enforce the provisions~~
19 ~~of this chapter and empower the Board to perform its duties, the Chair of the~~
20 ~~Board may issue subpoenas, examine persons, administer oaths, and require~~
21 ~~production of papers and records. Any subpoena or notice to produce may be~~
22 ~~served by registered or certified mail or in person by an agent of the Chair.~~

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 ~~Service by registered or certified mail shall be effective three business days~~
2 ~~after mailing. Any subpoena or notice to produce shall provide at least six~~
3 ~~business days' time from service within which to comply, except that the Chair~~
4 ~~may shorten the time for compliance for good cause shown. Any subpoena or~~
5 ~~notice to produce sent by registered or certified mail, postage prepaid, shall~~
6 ~~constitute service on the person to whom it is addressed. Each witness who~~
7 ~~appears before the Chair under subpoena shall receive a fee and mileage as~~
8 ~~provided for witnesses in civil cases in Superior Courts; provided, however,~~
9 ~~any person subject to the Board's authority shall not be eligible to receive fees~~
10 ~~or mileage under this section. [Repealed.]~~

11 (j) ~~A person who fails or refuses to appear, to testify, or to produce papers~~
12 ~~or records for examination before the Chair upon properly being ordered to do~~
13 ~~so may be assessed an administrative penalty by the Chair of not more than~~
14 ~~\$2,000.00 for each day of noncompliance and proceeded against as provided in~~
15 ~~the Administrative Procedure Act, and the Chair may recommend to the~~
16 ~~appropriate licensing entity that the person's authority to do business be~~
17 ~~suspended for up to six months. [Repealed.]~~

18 Sec. 2. 18 V.S.A. § 9374a is added to read:

19 § 9374a. GENERAL POWERS

20 (a) The Board shall have the powers of a court of record in the
21 determination and adjudication of all matters of which it has jurisdiction. It

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 may render judgments, make orders and decrees, and enforce the same by any
2 suitable process issuable by courts in this State.

3 (b)(1) In addition to any other penalties and in order to enforce the
4 provisions of this chapter and empower the Board to perform its duties, the
5 Chair of the Board may issue subpoenas, examine persons, administer oaths,
6 and require production of papers and records. Any subpoena or notice to
7 produce may be served by registered or certified mail or in person by an agent
8 of the Chair. Service by registered or certified mail shall be effective three
9 business days after mailing. Any subpoena or notice to produce shall provide
10 at least six business days' time from service within which to comply, except
11 that the Chair may shorten the time for compliance for good cause shown.
12 Any subpoena or notice to produce sent by registered or certified mail, postage
13 prepaid, shall constitute service on the person to whom it is addressed. Each
14 witness who appears before the Chair under subpoena shall receive a fee and
15 mileage as provided for witnesses in civil cases in Superior Courts; provided,
16 however, any person subject to the Board's authority shall not be eligible to
17 receive fees or mileage under this section.

18 (2) A person who fails or refuses to appear, to testify, or to produce
19 papers or records for examination before the Chair upon properly being
20 ordered to do so may be assessed an administrative penalty by the Chair of not
21 more than \$2,000.00 for each day of noncompliance and proceeded against as

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 provided in the Administrative Procedure Act, and the Chair may recommend
2 to the appropriate licensing entity that the person's authority to do business be
3 suspended for up to six months.

4 (c)(1) The Board may conduct an inquiry into the cost containment
5 activities; delivery system reforms; payment methodologies; payment rates; or
6 administration, finances, or budget of a health insurer, accountable care
7 organization, hospital, health care system, or other entity regulated by the
8 Board under this title in order to further the purposes set forth in section 9372
9 of this title. Notwithstanding this authority to investigate, the Board shall not
10 supersede the Department of Financial Regulation's authority, including its
11 determinations of solvency, over the entities it regulates. Information
12 furnished under this section by an entity regulated by the Department of
13 Financial Regulation shall be subject to the confidentiality and information
14 sharing agreement provisions in 8 V.S.A. § 22 and shall be treated as though
15 that information were furnished to the Board by the Department of Financial
16 Regulation.

17 (2) A majority of the Board, which majority must include the chair, may
18 institute an inquiry pursuant to this subsection and may appoint a hearing
19 officer or a single member of the Board to act as a hearing officer.

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 (3)(A) A hearing officer may administer oaths in all inquiries and
2 examinations, so far as the exercise of that power is properly incidental to the
3 performance of his or her duties under this subsection.

4 (B) A hearing officer shall report his or her findings of fact in writing
5 to the Board in the form of a proposal for decision. A copy shall be served
6 upon the parties and an opportunity to file exceptions and present briefs and
7 oral arguments shall be afforded consistent with 3 V.S.A. § 811. A final order
8 on such findings shall be rendered only by a majority of the Board.

9 (C) Upon written request to the Board by a majority of the parties at
10 least five days prior to the proceeding, the Chair may appoint at least a
11 majority of the Board to conduct the proceeding.

12 (D) In any proceeding held in accordance with this subsection, the
13 hearing office shall permit intervention by any interested party that will, in the
14 hearing officer's discretion, materially advance the proceeding. The burden is
15 on the party seeking to intervene to demonstrate that the party's participation
16 will materially advance the proceeding. For purposes of this section,
17 "interested party" status shall be available only to persons or organizations
18 who demonstrate that they will be substantially and directly affected by the
19 proceeding. Persons able to render material assistance to the Board by
20 providing nonduplicative evidence relevant to the proceeding may be admitted
21 in an amicus curiae capacity but shall not be considered parties.

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 (4) After conducting an inquiry as set forth in this section, the Board
2 may enter such orders as are necessary to further the purposes set forth in
3 section 9372 of this title. Notwithstanding this authority, the Board shall not
4 supersede the Department of Financial Regulation's authority, including its
5 determinations of solvency, over the entities it regulates.

6 Sec. 3. 18 V.S.A. § 9374b is added to read:

7 § 9374b. SERVICE OF PROCESS; NOTICE OF HEARINGS;

8 TEMPORARY RESTRAINING ORDERS

9 (a) All process issued by the Board shall state the time and place of return
10 in those cases in which return is to be made to the Board. Orders, notices, and
11 other process issued by the Board shall be served personally, by first class
12 mail, or by electronic means, except that the Board may direct that service be
13 made by registered or certified mail. If the whereabouts of a person are
14 unknown, or if the number of respondents is so great that personal service or
15 service by mail is impracticable, service may be made by publications.

16 (b) Except as provided in subsections (c), (d), and (e) of this section, the
17 Board shall give 12 days' notice of all hearings.

18 (c) A prehearing or procedural conference may be held upon any
19 reasonable notice.

20 (d) An evidentiary hearing, once commenced upon proper notice, may be
21 continued to a subsequent date upon any reasonable notice.

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 (e) Notwithstanding any other provision of this section, the Board or a
2 single member may grant temporary restraining orders in the manner provided
3 by and subject to the limitations prescribed by the Vermont Rules of Civil
4 Procedure.

5 Sec. 4. 18 V.S.A. § 9374c is added to read:

6 § 9374c. PLEADINGS; RULES OF PRACTICE; FINDINGS OF FACT

7 (a) The Board shall prescribe the forms, pleadings, and rules of practice
8 and procedure before it.

9 (b) The Board shall hear all matters within its jurisdiction and make its
10 findings of fact. It shall state its rulings of law when they are excepted to.

11 Upon appeal to the Supreme Court, its findings of fact shall be accepted unless
12 clearly erroneous.

13 Sec. 5. 18 V.S.A. § 9375(b) is amended to read:

14 (b) The Board shall have the following duties:

15 * * *

16 (2)(A) Review and approve Vermont's statewide Health Information
17 Technology Plan pursuant to section 9351 of this title to ensure that the
18 necessary infrastructure is in place to enable the State to achieve the principles
19 expressed in section 9371 of this title. Vermont Information Technology
20 Leaders shall be an interested party in the Board's review.

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 Board may authorize a hearing officer or a single Board member to conduct the
2 hearing as provided in 18 V.S.A. § 9374a.

3 (b) The Board's inquiry shall include a review of whether the public good
4 would be served by designating a regulated entity as a public utility through a
5 process similar to the certificate of public good or an order of appointment
6 conducted by the Public Service Board pursuant to 30 V.S.A. §§ 209, 218,
7 231, and 248a.

8 (c) On or before February 1, 2017, the Board shall report to the House
9 Committee on Health Care, the Senate Committees on Health and Welfare and
10 on Finance, and the Governor with its findings and recommendations regarding
11 the implementation of a public utility model for the regulation of health care
12 reimbursement.

13 Sec. 7. PROVIDER RATE SETTING

14 On or before January 1, 2017, and to the extent permitted under federal law,
15 the Green Mountain Care Board shall establish the payment amounts and
16 methods required by 18 V.S.A. § 9376 for at least one health care sector and
17 shall continue to establish amounts and methods for additional health care
18 sectors on an ongoing basis.

19 * * * Vermont Information Technology Leaders * * *

20 Sec. 8. 18 V.S.A. § 9352 is amended to read:

21 § 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 (a)(1) Governance. ~~The General Assembly and the Governor shall each~~
2 ~~appoint one representative to the~~ Vermont Information Technology Leaders,
3 Inc. (VITL) Board of Directors shall be not less than nine (9) and no more than
4 fourteen (14) members. consist of nine members. The term of each member
5 shall be three years, except that of the members first appointed, four shall serve
6 a term of two years and five shall serve a term of three years. The Board of
7 Directors shall comprise the following:

8 (A) one member of the General Assembly, appointed by the Speaker
9 of the House and the President Pro Tempore of the Senate, who shall be
10 entitled to the same per diem compensation and expense reimbursement
11 pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the
12 General Assembly;

13 (B) one individual appointed by the Governor;

14 (C) one representative of the business community;

15 (D) one representative of health care consumers;

16 (E) one representative of Vermont hospitals;

17 (F) one representative of Vermont physicians;

18 (G) one practicing clinician licensed to practice medicine in Vermont;

19 (H) one representative of a health insurer;

20 (I) the President of VITL, who shall be *ex officio*, without vote;

21 (J) two open seats and

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 (K) two individuals familiar with health information technology, at
2 least one of whom shall be the chief technology officer for a health care
3 provider.

4 (2) Except for the members appointed pursuant to subdivisions (1)(A)
5 and (B) of this subsection, whenever a vacancy on the Board occurs, the
6 members of the Board of Directors then serving shall appoint a new member
7 who shall meet the same criteria as the member he or she replaces.

8 (b) Conflict of interest. In carrying out their responsibilities under this
9 section, Directors of VITL shall be subject to conflict of interest policies
10 established by the Secretary of Administration to ensure that deliberations and
11 decisions are fair and equitable.

12 (c)(1) Health information exchange operation. VITL shall be designated in
13 the Health Information Technology Plan pursuant to section 9351 of this title
14 to operate the exclusive statewide health information exchange network for
15 this State. ~~The~~ After the Green Mountain Care Board approves VITL's core
16 activities and budget pursuant to chapter 220 of this title, the Secretary of
17 Administration or designee shall enter into ~~procurement~~ grant agreements with
18 VITL pursuant to 8 V.S.A. § 4089k. Nothing in this chapter shall impede local
19 community providers from the exchange of electronic medical data, provided it
20 is in accordance with Vermont's statewide Health Information Technology
21 Plan and the criteria required for health care providers and health care facilities

February 19, 2015

Administration's Policy Proposal – GMCB Authority & VITL

1 to create or maintain connectivity to the State's health information exchange as
2 provided for in section 9352 of this title.

3 (2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the
4 contrary, upon request of the Secretary of Administration, the Department of
5 Information and Innovation shall review VITL's technology for security,
6 privacy, and interoperability with State government information technology
7 consistent with the state's health information technology plan required by 18
8 V.S.A. 9351.

9

* * *