

1 H.921

2 Introduced by Committee on Human Services

3 Date:

4 Subject: Human services; nursing homes; transfer of ownership; Department
5 of Disabilities, Aging, and Independent Living

6 Statement of purpose of bill as introduced: This bill proposes to establish a
7 working group to examine the oversight of nursing homes in Vermont. It
8 would also eliminate a requirement for a certificate of need prior to the
9 transfer of ownership of a nursing home.

10 An act relating to nursing home oversight

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

12 Sec. 1. NURSING HOME OVERSIGHT WORKING GROUP; REPORT

13 (a) Creation. There is created the Nursing Home Oversight Working
14 Group to examine the oversight of nursing homes in Vermont, including
15 financial stability and licensing criteria, in order to ensure the provision of
16 high-quality services and a safe and stable environment for nursing home
17 residents.

18 (b) Membership. The Working Group shall be composed of the following
19 eight members:

- 1 (1) the Commissioner of Disabilities, Aging, and Independent Living or
2 designee, who shall be the Chair;
- 3 (2) the Director of the Division of Licensing and Protection in the
4 Department of Disabilities, Aging, and Independent Living or designee;
- 5 (3) the Director of the Division of Rate Setting in the Agency of Human
6 Services or designee;
- 7 (4) the Vermont Attorney General or designee;
- 8 (5) the State Long-Term Care Ombudsman or designee;
- 9 (6) a representative of the Vermont Health Care Association;
- 10 (7) a member of the Department of Disabilities, Aging, and Independent
11 Living Advisory Board selected by the Board; and
- 12 (8) a nursing home owner or administrator appointed by the
13 Commissioner.
- 14 (c) Powers and duties. The Working Group shall:
- 15 (1) identify procedures to monitor nursing homes' ongoing financial
16 stability and to provide for early identification of nursing homes in financial
17 distress, including:
- 18 (A) reviewing the types and frequency of the financial data currently
19 reported by nursing homes, including data reported pursuant to statutes, rules,
20 and procedures, as well as to whom the data are reported and how the recipient
21 uses the information; and

1 (B) developing a process for addressing circumstances in which
2 nursing homes are determined to be in financial distress;

3 (2) determine whether and what types of additional financial data may
4 be necessary to evaluate nursing homes' ongoing financial stability, including
5 cost data related to real estate lease agreements with related or other parties
6 resulting from the separation of the entity owning the real estate from the
7 entity operating the facility;

8 (3) review, in consultation with the Green Mountain Care Board, the
9 criteria that the Board considers in its review of applications for transfers of
10 nursing home ownership and determine how those criteria should be addressed
11 in the future, by whom, and as part of what process;

12 (4) determine the appropriate regulatory entity or entities and the
13 resources needed to monitor the quality of care and financial stability of
14 nursing homes on an ongoing basis; and

15 (5) review current nursing home application and licensure requirements
16 and identify any necessary changes, including any changes that are needed to
17 ensure that:

18 (A) for the transfer of ownership of a nursing home, the purchaser
19 has obtained the necessary financing for the transaction prior to the issuance of
20 a license;

21 (B) appropriate and objective criminal background, abuse registry,

1 regulatory, and quality information are considered prior to issuance of initial
2 and renewal licenses; and

(C) appropriate information is disclosed through the application
process to enable the identification of the ownership, controlling, and
management interests in both the real estate and operations components of the
nursing home; *and*

3 *(6) review the Division of Rate Setting's rules regarding Medicaid*
4 *reimbursements to nursing homes, including whether current reimbursement*
5 *amounts support ongoing financial stability and whether a 90 percent*
6 *occupancy level requirement continues to be necessary and appropriate.*

7 (d) Assistance. The Working Group shall have the administrative,
8 technical, and legal assistance of the Department of Disabilities, Aging, and
9 Independent Living.

10 (e) Report. On or before January 15, 2019, the Working Group shall
11 submit a written report to the House Committee on Human Services and the
12 Senate Committee on Health and Welfare that includes its findings and any
13 recommendations for legislative action.

14 Sec. 2. 18 V.S.A. § 9434 is amended to read:

15 § 9434. CERTIFICATE OF NEED; GENERAL RULES

16 (a) A health care facility other than a hospital shall not develop or have
17 developed on its behalf a new health care project without issuance of a

1 certificate of need by the Board. For purposes of this subsection, a “new
2 health care project” includes the following:

3 * * *

4 (3) The offering of any home health service, or the transfer or
5 conveyance of more than a 50 percent ownership interest in a health care
6 facility other than a hospital or nursing home.

7 * * *

8 ~~Sec. 3. EFFECTIVE DATES~~

9 ~~(a) Sec. 1 (Nursing Home Oversight Working Group) and this section shall~~
10 ~~take effect on passage.~~

11 ~~(b) Sec. 2 (18 V.S.A. § 9434) shall take effect on July 1, 2018 and shall~~
12 ~~apply to all transfers of ownership initiated on or after that date.~~

~~Sec. 3. TRANSFER OF OWNERSHIP: EXPEDITED CERTIFICATE OF
NEED PROCESS~~

~~(a) Notwithstanding any provision of 18 V.S.A. chapter 221, subchapter 5~~
~~to the contrary, for the period from the effective date of this act through July 1,~~
~~2019, the Green Mountain Care Board shall review new applications for a~~
~~certificate of need for transfer of ownership of a nursing home using the~~
~~expedited process set forth in 18 V.S.A. § 9440(c)(5).~~

~~(b) For certificate of need applications for transfer of nursing home~~
~~ownership that are pending on the effective date of this act, the Board may~~

~~permit an applicant to elect whether to complete the certificate of need process
on a standard or expedited basis.~~

Sec. 4. EFFECTIVE DATES

~~*(a) Sec. 1 (Nursing Home Oversight Working Group), Sec. 3 (transfer of
ownership; expedited certificate of need process), and this section shall take
effect on passage.*~~

~~*(b) Sec. 2 (18 V.S.A. § 9434) shall take effect on July 1, 2019 and shall
apply to all transfers of ownership initiated on or after that date.*~~

*Sec. 3. TRANSFER OF NURSING HOME OWNERSHIP; INTERIM
REVIEW PROCESS*

*(a) The Secretary of Human Services shall develop a process by which the
Agency of Human Services shall accept and review applications for transfers
of ownership of nursing homes in lieu of the certificate of need process,
including:*

*(1) examining the potential buyer's financial and administrative
capacity to purchase and operate the nursing home in a manner that will
provide high-quality services and a safe and stable environment for nursing
home residents;*

*(2) allowing the Agency of Human Services 30 calendar days from the
date the application is complete to review the application and to request and
obtain any additional information the Agency deems necessary in order to*

approve or deny the application for transfer of nursing home ownership; provided that the time during which the applicant is responding to the Agency's request for additional information shall not be included within the Agency's 30-day review period; and

(3) requiring the Agency of Human Services to issue a written decision approving or denying the application for transfer of nursing home ownership within 45 calendar days following the 30-day review period.

(b) Applicants who filed a letter of intent or application for a certificate of need with the Green Mountain Care Board for transfer of nursing home ownership on or before July 1, 2018 may elect to have the proposed transfer reviewed under the process established in subsection (a) of this section in lieu of continuing with the certificate of need process. Any such applicant shall file an application with the Agency of Human Services in accordance with the process established by the Secretary.

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 (Nursing Home Oversight Working Group) and this section shall take effect on passage.

(b) Sec. 2 (18 V.S.A. § 9434) shall take effect on July 1, 2018 and shall apply to all transfers of ownership initiated on or after that date.

(c) Sec. 3 (transfer of nursing home ownership; interim review process) shall take effect on July 1, 2018.