

1 Introduced by Committee on Health Care

2 Date:

3 Subject: Health; Green Mountain Care Board; State Health Improvement Plan;  
4 Health Resource Allocation Plan; certificate of need

5 Statement of purpose of bill as introduced: This bill proposes to modify the  
6 scopes and functions of the Health Resource Allocation Plan and the health  
7 care expenditure analysis and to revise the certificate of need process for  
8 hospitals and other health care facilities. It would replace the Green Mountain  
9 Care Board’s duty to create a unified health care budget with a requirement for  
10 an estimate of future health care spending. It would specify that a member,  
11 officer, or employee of the Green Mountain Care Board may perform any  
12 service that is within the Board’s jurisdiction and that the Board delegates to  
13 that member, officer, or employee. The bill would also authorize the Green  
14 Mountain Care Board to continue performing annual Medicaid advisory rate  
15 cases for health care services to be delivered through an accountable care  
16 organization.

17 An act relating to the health care regulatory duties of the Green Mountain  
18 Care Board

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

2 \* \* \* State Health Improvement Plan; Health Resource Allocation Plan \* \* \*

3 **(from H.669)**

4 Sec. 1. 18 V.S.A. § 9375(b) is amended to read:

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

6 \* \* \*

7 (4) ~~Review~~ Publish on its website the Health Resource Allocation Plan  
8 ~~created in chapter 221 of this title~~ identifying Vermont's critical health needs,  
9 goods, services, and resources in accordance with section 9405 of this title.

10 \* \* \*

11 Sec. 2. 18 V.S.A. § 9382(b)(1) is amended to read:

12 (b)(1) The Green Mountain Care Board shall adopt rules pursuant to  
13 3 V.S.A. chapter 25 to establish standards and processes for reviewing,  
14 modifying, and approving the budgets of ACOs with 10,000 or more attributed  
15 lives in Vermont. To the extent permitted under federal law, the Board shall  
16 ensure the rules anticipate and accommodate a range of ACO models and sizes,  
17 balancing oversight with support for innovation. In its review, the Board shall  
18 review and consider:

19 \* \* \*

20 (B) ~~the goals and recommendations of the Health Resource~~  
21 ~~Allocation Plan created in chapter 221 of this title~~ identifying Vermont's

1 critical health needs, goods, services, and resources as identified pursuant to  
2 section 9405 of this title;

3 \* \* \*

4 Sec. 3. 18 V.S.A. § 9402 is amended to read:

5 § 9402. DEFINITIONS

6 As used in this chapter, unless otherwise indicated:

7 \* \* \*

8 (10) “Health Resource Allocation Plan” means the plan ~~adopted~~  
9 published by the Green Mountain Care Board under section in accordance with  
10 subsection 9405(b) of this title.

11 \* \* \*

12 (16) “State Health Improvement Plan” means the plan developed under  
13 section 9405 of this title.

14 \* \* \*

15 Sec. 4. 18 V.S.A. § 9405 is amended to read:

16 § 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE  
17 ALLOCATION PLAN

18 (a) ~~No later than January 1, 2005, the~~ The Secretary of Human Services or  
19 designee, in consultation with the Chair of the Green Mountain Care Board and  
20 health care professionals and after receipt of public comment, shall adopt a  
21 State Health Improvement Plan that sets forth the health goals and values for

1 the State. The Secretary may amend the Plan as the Secretary deems necessary  
2 and appropriate. The Plan shall include health promotion, health protection,  
3 nutrition, and disease prevention priorities for the State; identify available  
4 human resources as well as human resources needed for achieving the State's  
5 health goals and the planning required to meet those needs; and identify  
6 geographic parts of the State needing investments of additional resources in  
7 order to improve the health of the population. ~~The Plan shall contain sufficient~~  
8 ~~detail to guide development of the State Health Resource Allocation Plan.~~  
9 Copies of the Plan shall be submitted to members of the Senate ~~and House~~  
10 ~~Committees~~ Committee on Health and Welfare ~~no later than January 15, 2005~~  
11 and the House Committee on Health Care.

12 (b) ~~On or before July 1, 2005, the~~ The Green Mountain Care Board, in  
13 consultation with the Secretary of Human Services or designee, shall ~~submit to~~  
14 ~~the Governor a four-year Health Resource Allocation Plan~~ publish on its  
15 website the Health Resource Allocation Plan identifying Vermont's critical  
16 health needs, goods, services, and resources, which shall be used to inform the  
17 Board's regulatory processes, cost containment and statewide quality of care  
18 efforts, health care payment and delivery system reform initiatives, and any  
19 allocation of health resources within the State. The Plan shall identify  
20 Vermont residents' needs ~~in~~ for health care services, programs, and facilities;  
21 the resources available and the additional resources that would be required to

1 realistically meet those needs and to make access to those services, programs,  
2 and facilities affordable for consumers; and the priorities for addressing those  
3 needs on a statewide basis. The Board may expand the Plan to include  
4 resources, needs, and priorities related to the social determinants of health.  
5 The Plan shall be revised periodically, but not less frequently than once every  
6 four years.

7 (1) ~~The Plan shall include~~ In developing the Plan, the Board shall:

8 (A) ~~A statement of principles reflecting the policies~~ consider the  
9 principles in section 9371 of this title, as well as the purposes enumerated in  
10 sections 9401 and 9431 of this chapter to be used in allocating resources and in  
11 establishing priorities for health services. title;

12 ~~(B) Identification of the current supply and distribution of hospital,~~  
13 ~~nursing home, and other inpatient services; home health and mental health~~  
14 ~~services; treatment and prevention services for alcohol and other drug abuse;~~  
15 ~~emergency care; ambulatory care services, including primary care resources,~~  
16 ~~federally qualified health centers, and free clinics; major medical equipment;~~  
17 ~~and health screening and early intervention services.~~

18 ~~(C) Consistent with the principles set forth in subdivision (A) of this~~  
19 ~~subdivision (1), recommendations for the appropriate supply and distribution~~  
20 ~~of resources, programs, and services identified in subdivision (B) of this~~  
21 ~~subdivision (1), options for implementing such recommendations and~~

1 ~~mechanisms which will encourage the appropriate integration of these services~~  
2 ~~on a local or regional basis. To arrive at such recommendations, the Green~~  
3 ~~Mountain Care Board shall consider at least the following factors:~~

4 ~~(i) the values and goals reflected in the State Health Plan;~~

5 ~~(ii) the needs of the population on a statewide basis;~~

6 ~~(iii) the needs of particular geographic areas of the State, as~~  
7 ~~identified in the State Health Plan;~~

8 ~~(iv) the needs of uninsured and underinsured populations;~~

9 ~~(v) the use of Vermont facilities by out-of-state residents;~~

10 ~~(vi) the use of out-of-state facilities by Vermont residents;~~

11 ~~(vii) the needs of populations with special health care needs;~~

12 ~~(viii) the desirability of providing high quality services in an~~  
13 ~~economical and efficient manner, including the appropriate use of midlevel~~  
14 ~~practitioners;~~

15 ~~(ix)~~ (B) consider the cost impact of these resource requirements on  
16 health care expenditures;

17 ~~(x) the overall quality and use of health care services as reported~~  
18 ~~by the Vermont Program for Quality in Health Care and the Vermont Ethics~~  
19 ~~Network;~~

20 ~~(xi) the overall quality and cost of services as reported in the~~  
21 ~~annual hospital community reports;~~

1                   ~~(xii) individual hospital four year capital budget projections; and~~  
2                   ~~(xiii) the four year projection of health care expenditures prepared~~  
3 ~~by the Board~~

4                   (C) identify priorities using information from:

5                   (i) the State Health Improvement Plan;

6                   (ii) the community health needs assessments required by section  
7 9405a of this title;

8                   (iii) available health care workforce information;

9                   (iv) materials provided to the Board through its other regulatory  
10 processes, including hospital budget review, oversight of accountable care  
11 organizations, issuance and denial of certificates of need, and health insurance  
12 rate review; and

13                   (v) the public input process set forth in this section; and

14                   (D) use existing data sources to identify and analyze the gaps  
15 between the supply of health resources and the health needs of Vermont  
16 residents and to identify utilization trends to determine areas of  
17 underutilization and overutilization.

18                   (2) ~~In the preparation of the Plan, the~~ The Green Mountain Care Board  
19 shall convene the Green Mountain Care Board General Advisory Committee  
20 established pursuant to subdivision 9374(e)(1) of this title. ~~The Green~~  
21 ~~Mountain Care Board General Advisory Committee shall review drafts and to~~

1 provide recommendations to the Board during the Board's development of the  
2 Plan.

3 (3) ~~The Board, with the Green Mountain Care Board General Advisory~~  
4 ~~Committee, shall conduct at least five public hearings, in different regions of~~  
5 ~~the State, on the Plan as proposed shall receive and consider public input on~~  
6 ~~the Plan at a minimum of one Board meeting and one meeting of the Advisory~~  
7 ~~Committee and shall give interested persons an opportunity to submit their~~  
8 ~~views orally and in writing. To the extent possible, the Board shall arrange for~~  
9 ~~hearings to be broadcast on interactive television. Not less than 30 days prior~~  
10 ~~to any such hearing, the Board shall publish in the manner prescribed in~~  
11 ~~1 V.S.A. § 174 the time and place of the hearing and the place and period~~  
12 ~~during which to direct written comments to the Board. In addition, the Board~~  
13 ~~may create and maintain a website to allow members of the public to submit~~  
14 ~~comments electronically and review comments submitted by others.~~

15 (4) ~~The Board shall develop a mechanism for receiving ongoing public~~  
16 ~~comment regarding the Plan and for revising it every four years or as needed~~  
17 As used in this section:

18 (A) “Health resources” means investments into the State’s health care  
19 system, including investments in personnel, equipment, and infrastructure  
20 necessary to deliver:

21 (i) hospital, nursing home, and other inpatient services;



1                   (ii) ambulatory care, including primary care services, mental  
2 health services, health screening and early intervention services, and services  
3 for the prevention and treatment of substance use disorders;

4                   (iii) home health services; and

5                   (iv) emergency care, including ambulance services.

6                   (B) “Health resources” may also include investments in personnel,  
7 equipment, and infrastructure necessary to address the social determinants of  
8 health.

9                   ~~(5) The Board in consultation with appropriate health care organizations~~  
10 ~~and State entities shall inventory and assess existing State health care data and~~  
11 ~~expertise, and shall seek grants to assist with the preparation of any revisions~~  
12 ~~to the Health Resource Allocation Plan.~~

13                   ~~(6) The Plan or any revised plan proposed by the Board shall be the~~  
14 ~~Health Resource Allocation Plan for the State after it is approved by the~~  
15 ~~Governor or upon passage of three months from the date the Governor receives~~  
16 ~~the proposed Plan, whichever occurs first, unless the Governor disapproves the~~  
17 ~~proposed Plan, in whole or in part. If the Governor disapproves, he or she~~  
18 ~~shall specify the sections of the proposed Plan which are objectionable and the~~  
19 ~~changes necessary to meet the objections. The sections of the proposed Plan~~  
20 ~~not disapproved shall become part of the Health Resource Allocation Plan.~~

1 Sec. 5. 18 V.S.A. § 9456 is amended to read:

2 § 9456. BUDGET REVIEW

3 \* \* \*

4 (b) In conjunction with budget reviews, the Board shall:

5 (1) review utilization information;

6 (2) consider ~~the goals and recommendations of~~ **the Health Resource**  
7 **Allocation Plan identifying** Vermont's critical health needs, goods, services,  
8 and resources as identified pursuant to section 9405 of this title;

9 \* \* \*

10 \* \* \* Certificate of Need \* \* \*

11 Sec. 6. 18 V.S.A. chapter 221, subchapter 5 is amended to read:

12 Subchapter 5. Health Facility Planning

13 § 9431. POLICY AND PURPOSE

14 (a) It is declared to be the public policy of this State that the general  
15 welfare and protection of the lives, health, and property of the people of this  
16 State require that all new health care projects be offered or developed in a  
17 manner that avoids unnecessary duplication and contains or reduces increases  
18 in the cost of delivering services, while at the same time maintaining and  
19 improving the quality of and access to health care services, and promoting  
20 rational allocation of health care resources in the State; and that the need, cost,

1 type, level, quality, and feasibility of providing any new health care project be  
2 subject to review and assessment prior to any offering or development.

3 (b) ~~In order to carry out the policy goals of this subchapter, the board shall~~  
4 ~~adopt by rule by January 1, 2013, certificate of need procedural guidelines to~~  
5 ~~assist in its decision making. The guidelines shall be consistent with the state~~  
6 ~~health plan and the health resource allocation plan. [Repealed.]~~

7 \* \* \*

8 § 9433. ADMINISTRATION

9 (a) The Green Mountain Care Board shall exercise such duties and powers  
10 as ~~shall be~~ necessary for the implementation of the certificate of need program  
11 as provided by and consistent with this subchapter. The Board shall issue or  
12 deny certificates of need and administer the program.

13 (b) The Board ~~may~~ shall adopt rules governing the review of certificate of  
14 need applications consistent with and necessary to the proper administration of  
15 this subchapter. All rules shall be adopted pursuant to 3 V.S.A. chapter 25.

16 (c) The Board shall consult with hospitals, ~~nursing homes,~~ and other health  
17 care facilities, professional associations and societies, the Secretary of Human  
18 Services, the Office of the Health Care Advocate, and other interested parties  
19 in matters of policy affecting the administration of this subchapter.

20 (d) ~~The board shall administer the certificate of need program. [Repealed.]~~

1 § 9434. CERTIFICATE OF NEED; GENERAL RULES

2 \* \* \*

3 (b) A hospital shall not develop or have developed on its behalf a new  
4 health care project without issuance of a certificate of need by the Board. For  
5 purposes of this subsection, a “new health care project” includes the following:

6 (1) The construction, development, purchase, renovation, or other  
7 establishment of a health care facility, or any capital expenditure by or on  
8 behalf of a hospital, for which the capital cost exceeds \$3,000,000.00.

9 (2) The purchase, lease, or other comparable arrangement of a single  
10 piece of diagnostic and therapeutic equipment for which the cost, or in the case  
11 of a donation the value, is in excess of ~~\$1,000,000.00~~ \$1,500,000.00. For  
12 purposes of this subdivision, the purchase or lease of one or more articles of  
13 diagnostic or therapeutic equipment that are necessarily interdependent in the  
14 performance of their ordinary functions or that would constitute any health  
15 care facility included under subdivision 9432(8)(B) of this title, as determined  
16 by the Board, shall be considered together in calculating the amount of an  
17 expenditure. The Board’s determination of functional interdependence of  
18 items of equipment under this subdivision shall have the effect of a final  
19 decision and is subject to appeal under section 9381 of this title.

20 (3) The offering of a health care service or technology having an annual  
21 operating expense that exceeds ~~\$500,000.00~~ \$1,000,000.00 for either of the

1 next two budgeted fiscal years, if the service or technology was not offered or  
2 employed, either on a fixed or a mobile basis, by the hospital within the  
3 previous three fiscal years.

4 \* \* \*

5 (e) ~~Beginning January 1, 2013, and biannually thereafter, the~~ The Board  
6 ~~may by rule periodically~~ adjust the monetary jurisdictional thresholds  
7 contained in this section. In doing so, the Board shall reflect the same  
8 categories of health care facilities, services, and programs recognized in this  
9 section. Any adjustment by the Board shall not exceed an amount calculated  
10 using the cumulative Consumer Price Index rate of **medical** inflation.

11 § 9435. EXCLUSIONS

12 \* \* \*

13 (f) Excluded from this subchapter are routine replacements of nonmedical  
14 equipment and fixtures, including furnaces, boilers, refrigeration units, kitchen  
15 equipment, heating and cooling units, and similar items. These replacements  
16 purchased by a hospital shall be included in the hospital's budget and may be  
17 reviewed in the budget process set forth in subchapter 7 of this chapter.

18 § 9437. CRITERIA

19 A certificate of need shall be granted if the applicant demonstrates that the  
20 project serves the public good and the Board finds ~~that~~:

1           (1) ~~the application is consistent with the Health Resource Allocation~~  
2           ~~Plan~~ The proposed project aligns with statewide health care reform goals and  
3           principles because the project:

4                    (A) takes into consideration health care payment and delivery system  
5           reform initiatives;

6                    (B) addresses current and future community needs in a manner that  
7           balances statewide needs, if applicable; and

8                    (C) is consistent with appropriate allocation of health care resources,  
9           including appropriate utilization of services, **as identified in the Health**  
10           **Resource Allocation Plan developed pursuant to section 9405 of this title.**

11           (2) ~~the~~ The cost of the project is reasonable, because each of the  
12           following conditions is met:

13                    (A) ~~the~~ The applicant’s financial condition will sustain any financial  
14           burden likely to result from completion of the project;

15                    (B) ~~the~~ The project will not result in an undue increase in the costs of  
16           medical care or unduly impact **its the** affordability **of medical care for**  
17           **consumers.** In making a finding under this subdivision, the Board shall

18           consider and weigh relevant factors, including:

19                    (i) the financial implications of the project on hospitals and other  
20           clinical settings, including the impact on their services, expenditures, and  
21           charges; and

1 (ii) whether the impact on services, expenditures, and charges is  
2 outweighed by the benefit of the project to the public;~~and.~~

3 (C) ~~less~~ Less expensive alternatives do not exist, would be  
4 unsatisfactory, or are not feasible or appropriate;

5 (3) ~~there~~ There is an identifiable, existing, or reasonably anticipated  
6 need for the proposed project ~~which~~ that is appropriate for the applicant to  
7 provide;

8 (4) ~~the~~ The project will improve the quality of health care in the State or  
9 provide greater access to health care for Vermont's residents, or both;

10 (5) ~~the~~ The project will not have an undue adverse impact on any other  
11 existing services provided by the applicant;

12 (6) ~~the project will serve the public good;~~ [Repealed.]

13 (7) ~~the~~ The applicant has adequately considered the availability of  
14 affordable, accessible ~~patient~~ transportation services to the facility;~~and, if~~  
15 applicable.

16 (8) ~~if~~ If the application is for the purchase or lease of new Health Care  
17 Information Technology, it conforms with the ~~health information technology~~  
18 ~~plan~~ Health Information Technology Plan established under section 9351 of  
19 this title.

20 § 9439. COMPETING APPLICATIONS

21 \* \* \*

1 (b) When a letter of intent to compete has been filed, the review process is  
2 suspended and the time within which a decision must be made as provided in  
3 subdivision 9440(d)(4) of this title is stayed until the competing application  
4 has been ruled complete or for a period of 55 days from the date of notification  
5 under subdivision 9440(c)(8) as to the original application, whichever is  
6 shorter.

7 \* \* \*

8 ~~(d) The Board may, by rule, establish regular review cycles for the addition~~  
9 ~~of beds for skilled nursing or intermediate care. [Repealed.]~~

10 ~~(e) In the case of proposals for the addition of beds for skilled nursing or~~  
11 ~~intermediate care, the Board shall identify in advance of the review the number~~  
12 ~~of additional beds to be considered in that cycle or the maximum additional~~  
13 ~~financial obligation to be incurred by the agencies of the State responsible for~~  
14 ~~financing long term care. The number of beds shall be consistent with the~~  
15 ~~number of beds determined to be necessary by the Health Resource~~  
16 ~~Management Plan or State Health Plan, whichever applies, and shall take into~~  
17 ~~account the number of beds needed to develop a new, efficient facility.~~

18 [Repealed.]

19 (f) Unless an application meets the requirements of subsection 9440(e) of  
20 this title, the Board shall consider disapproving a certificate of need application  
21 for a hospital if a project was not identified prospectively as needed at least



1 two years prior to the time of filing in the hospital's four-year capital plan  
2 required under subdivision 9454(a)(6) of this title. The Board shall review all  
3 hospital four-year capital plans as part of the review under subdivision  
4 ~~9437(2)(B)~~ **9437(a)(2)(B)** of this title.

5 § 9440. PROCEDURES

6 \* \* \*

7 (c) The application process shall be as follows:

8 (1) ~~Applications shall be accepted only at such times as the Board shall~~  
9 ~~establish by rule.~~ [Repealed.]

10 (2)(A) Prior to filing an application for a certificate of need, an applicant  
11 shall file an adequate letter of intent with the Board ~~no~~ not less than 30 days ~~or,~~  
12 ~~in the case of review cycle applications under section 9439 of this title, no less~~  
13 ~~than 45 days~~ prior to the date on which the application is to be filed. The letter  
14 of intent shall form the basis for determining the applicability of this  
15 subchapter to the proposed expenditure or action. A letter of intent shall  
16 become invalid if an application is not filed within six months ~~of~~ after the date  
17 that the letter of intent is received ~~or, in the case of review cycle applications~~  
18 ~~under section 9439 of this title, within such time limits as the Board shall~~  
19 ~~establish by rule.~~ The Board shall post public notice of such letters of intent on  
20 its website electronically within five business days ~~of~~ after receipt. The public  
21 notice shall identify the applicant, the proposed new health care project, and

1 the date by which a competing application or petition to intervene must be  
2 filed.

3 \* \* \*

4 (5)(A) An applicant seeking expedited review of a certificate of need  
5 application may simultaneously file with the Board a request for expedited  
6 review and an application. After receiving the request and an application, the  
7 Board shall issue public notice of the request and application in the manner set  
8 forth in subdivision (2) of this subsection.

9 (B)(i) At least 20 days after the public notice was issued, if no  
10 competing application has been filed and no party has sought and been granted,  
11 nor is likely to be granted, interested party status, the Board, ~~upon making a~~  
12 ~~determination that~~ may issue a certificate of need **without further process, or**  
13 **with in accordance with** such **abbreviated expedited** process as the Board  
14 deems appropriate, if the Board determines that:

15 (I) the proposed project **may be uncontested** appears likely  
16 **not to be contested** and does not substantially alter services, ~~as defined by~~  
17 ~~rule, or upon making a determination that; or~~

18 (II) the application relates to a health care facility affected by  
19 bankruptcy proceedings, ~~may formally declare the application uncontested and~~  
20 ~~may issue a certificate of need without further process, or with such~~  
21 ~~abbreviated process as the Board deems appropriate.~~

1                    **(ii) Any order granting expedited review shall include the**  
2                    **procedures and timelines that the Board shall follow for the expedited**  
3                    **review process. If practicable, the expedited review process shall include**  
4                    **acceptance of public comment until at least 10 days after the expedited**  
5                    **application is complete.**

6                    (C) If a competing application is filed or a person **opposing the**  
7                    **application** is granted interested party status, the applicant shall follow the  
8                    certificate of need standards and procedures in this section, except that:

9                    (i) a competing applicant or interested party may waive, in  
10                    writing, the requirement for a public hearing; and

11                    (ii) in the case of a health care facility affected by bankruptcy  
12                    proceedings, the Board may, after notice and an opportunity to be heard may,  
13                    issue a certificate of need with such abbreviated process as the Board deems  
14                    appropriate, notwithstanding the contested nature of the application.

15                    (D) The Board shall review applications for the following projects on  
16                    an expedited basis, unless a request for intervention as a competing applicant  
17                    or interested party is granted:

18                    (i) the repair, renovation, or replacement of facility infrastructure,  
19                    or a combination thereof; and

1                   (ii) the routine replacement of medical equipment if the  
2 technology and capability of the new equipment is comparable to that of the  
3 replaced equipment.

4                   (6) If an applicant fails to respond to an information request under  
5 subdivision (4) of this subsection within ~~six months or, in the case of review~~  
6 ~~cycle applications under section 9439 of this title, within such time limits as~~  
7 ~~the Board shall establish by rule 90 days~~, the application ~~will~~ shall be deemed  
8 inactive unless the applicant, within six months from the expiration of  
9 the 90-day period, requests in writing and shows good cause that the  
10 application should be reactivated, and the Board grants the request. If an  
11 applicant fails to respond to an information request within ~~12 months or, in the~~  
12 ~~case of review cycle applications under section 9439 of this title, within such~~  
13 ~~time limits as the Board shall establish by rule six months~~, the application ~~will~~  
14 shall become invalid unless the applicant requests, and the Board grants, an  
15 extension.

16                   (7) For purposes of this section, “interested party” status shall be  
17 granted to persons or organizations representing the interests of persons who  
18 demonstrate that they will be substantially and directly affected by the new  
19 health care project under review. Persons able to render material assistance to  
20 the Board by providing nonduplicative evidence relevant to the determination  
21 may be admitted in an amicus curiae capacity but shall not be considered

1 parties. A petition seeking party or amicus curiae status ~~must~~ shall be filed  
2 ~~within 20 days following public notice of the letter of intent, or within~~  
3 ~~20 days following public notice that the petition is complete~~ not later than  
4 five business days after the application is complete. The Board shall grant  
5 or deny a petition to intervene under this subdivision within 15 days after the  
6 petition is filed. The Board shall grant or deny the petition within an additional  
7 30 days upon finding that good cause exists for the extension. Once interested  
8 party status is granted, the Board shall provide the information necessary to  
9 enable the party to participate in the review process, including information  
10 about procedures, copies of all written correspondence, and copies of all  
11 entries in the application record.

12 (8) Once an application has been deemed to be complete, public notice  
13 of the application shall be provided ~~in newspapers having general circulation in~~  
14 ~~the region of the State affected by the application~~ electronically on the Board's  
15 website. The notice shall identify the applicant, the proposed new health care  
16 project, and the date ~~by which a competing application under section 9439 of~~  
17 ~~this title or a petition to intervene must be filed,~~ time, and location of any  
18 public hearing.

19 (9) The Office of the Health Care Advocate established under chapter  
20 229 of this title or, in the case of nursing homes, the Long-Term Care  
21 Ombudsman's Office established under 33 V.S.A. § 7502, is authorized but

1 not required to participate in any administrative or judicial review of an  
2 application under this subchapter and shall be considered an interested party in  
3 such proceedings upon filing a notice of intervention with the Board. **Once**  
4 **either office files a notice of intervention pursuant to this subchapter, the**  
5 **Board shall provide that office with the information necessary to**  
6 **participate in the review process, including information about procedures,**  
7 **copies of all written correspondence, and copies of all entries in the**  
8 **application record for all certificate of need proceedings, regardless of**  
9 **whether expedited status has been granted.**

10 (d) The review process shall be as follows:

11 (1) The Board shall review:

12 (A) the application materials provided by the applicant; and

13 (B) any information, evidence, or arguments raised by interested  
14 parties or amicus curiae, and any other public input.

15 (2) Except as otherwise provided in subdivision (c)(5) and subsection  
16 (e) of this section, the Board shall hold a public hearing during the course of a  
17 review.

18 (3) The Board shall make a final decision within 120 days after the date  
19 of notification under subdivision (c)(4) of this section. Whenever it is not  
20 practicable to complete a review within 120 days, the Board may extend the  
21 review period up to an additional 30 days. ~~Any review period may be~~

1 ~~extended with the written consent of the applicant and all other applicants in~~  
2 ~~the case of a review cycle process.~~

3 \* \* \*

4 (h) As used in this section, an application or proposed project is a  
5 “contested application” if one or more interested parties have intervened in the  
6 proceeding. If an interested party withdraws from the application or signifies  
7 its support of the application in writing before the Board renders a final  
8 decision, the application shall not be considered contested and the Board shall  
9 not be required to hold a public hearing on the application pursuant to  
10 subdivision (d)(2) of this section or issue a proposed decision pursuant to  
11 subdivision (d)(5) of this section.

12 \* \* \*

13 § 9440b. INFORMATION TECHNOLOGY; REVIEW PROCEDURES

14 Notwithstanding the procedures in section 9440 of this title, ~~upon approval~~  
15 ~~by the General Assembly of the Health Information Technology Plan~~  
16 ~~developed under section 9351 of this title~~, the Board shall establish by rule  
17 standards and expedited procedures for reviewing applications for the purchase  
18 or lease of health care information technology that otherwise would be subject  
19 to review under this subchapter. Such applications ~~may~~ shall not be granted or  
20 approved unless they are consistent with the Health Information Technology  
21 Plan developed under section 9351 of this title and the Health Resource

1 **Allocation Plan.** ~~The Board's rules may include a provision requiring that~~  
2 ~~applications be reviewed by the health information advisory group authorized~~  
3 ~~under section 9352 of this title. The advisory group shall make written~~  
4 ~~findings and a recommendation to the board in favor of or against each~~  
5 ~~application.~~

6 § 9441. FEES

7 \* \* \*

8 (d) All fees collected pursuant to this section shall be deposited into the  
9 Green Mountain Care Board Regulatory and Administrative Fund established  
10 by subsection 9404(d) of this title and may be used by the Board to administer  
11 its obligations, responsibilities, and duties as required by law.

12 \* \* \*

13 § 9445. ENFORCEMENT

14 (a) Any person who offers or develops any new health care project within  
15 the meaning of this subchapter without first obtaining a certificate of need as  
16 required ~~herein~~ by this subchapter, or who otherwise violates any of the  
17 provisions of this subchapter or any rule adopted or order issued pursuant to  
18 this subchapter, may be subject to one or both of the following administrative  
19 sanctions by the Board, after notice and an opportunity to be heard:

20 \* \* \*



1 (b) In addition to all other sanctions, if any person offers or develops any  
2 new health care project without first having been issued a certificate of need or  
3 certificate of exemption for the project, or violates any other provision of this  
4 subchapter or any ~~lawful~~ rule adopted or order issued pursuant to this  
5 subchapter, the Board, the Office of the Health Care Advocate, the State Long-  
6 Term Care Ombudsman, and health care providers and consumers located in  
7 the State shall have standing to maintain a civil action in the Superior Court of  
8 the county in which such alleged violation has occurred, or in which such  
9 person may be found, to enjoin, restrain, or prevent such violation. Upon  
10 written request by the Board, it shall be the duty of the Vermont Attorney  
11 General to furnish appropriate legal services and to prosecute an action for  
12 injunctive relief to an appropriate conclusion, which shall not be reimbursed  
13 under subdivision (a)(2) of this section.

14 (c)(1) After notice and an opportunity for hearing, the Board may impose  
15 on a person who ~~knowingly~~ violates a provision of this subchapter, or a rule  
16 adopted or order adopted issued pursuant to this subchapter ~~or 8 V.S.A. § 15,~~  
17 one or more of the following:

18 (A) a civil administrative penalty of ~~no not~~ not more than ~~\$40,000.00~~  
19 \$75,000.00, or in the case of a continuing violation, a civil administrative  
20 penalty of ~~no not~~ not more than ~~\$100,000.00~~ \$200,000.00 or one-tenth of one  
21 percent of the gross annual revenues of the health care facility, whichever is

1 greater, which shall not be reimbursed under subdivision (a)(2) of this section;  
2 ~~and the Board may;~~

3 (B) an order that the entity to person cease and desist from further  
4 violations; ~~and to take~~

5 (C) any such other actions necessary to remediate a violation.

6 (2) A person aggrieved by a decision of the Board under this ~~subsection~~  
7 subchapter may appeal under section 9381 of this title.

8 (d) The Board shall adopt by rule criteria for assessing the circumstances in  
9 which a violation of a provision of this subchapter, a rule adopted pursuant to  
10 this subchapter, or the terms or conditions of a certificate of need require that a  
11 penalty under this section shall be imposed, and criteria for assessing the  
12 circumstances in which a penalty under this section may be imposed.

13 § 9446. HOME HEALTH AGENCIES; GEOGRAPHIC SERVICE AREAS

14 The terms of a certificate of need relating to the boundaries of the  
15 geographic service area of a home health agency may be modified by the  
16 Board, in consultation with the Commissioner of Disabilities, Aging, and  
17 Independent Living, after notice and opportunity for hearing, or upon written  
18 application to the Board by the affected home health agencies or consumers,  
19 demonstrating a substantial need ~~therefor~~ for the modification. Service area  
20 boundaries may be modified by the Board to take account of natural or  
21 physical barriers that may make the provision of existing services

1 uneconomical or impractical, to prevent or minimize unnecessary duplication  
2 of services or facilities, or otherwise to promote the public interest. The Board  
3 shall issue an order granting such application only upon a finding that the  
4 granting of such application is consistent with the purposes of 33 V.S.A.  
5 chapter 63, subchapter 1A and **the Health Resource Allocation Plan**  
6 **established under section 9405 of this title and** after notice and an  
7 opportunity to participate on the record by all interested persons, including  
8 affected local governments, ~~pursuant to rules adopted by the Board.~~

9 \* \* \* Expenditure Analysis; Health Care Spending Estimate \* \* \*

10 **(from H.670)**

11 Sec. 7. 18 V.S.A. § 9373 is amended to read:

12 § 9373. DEFINITIONS

13 As used in this chapter:

14 \* \* \*

15 (14) ~~“Unified health care budget” means the budget established in~~  
16 ~~accordance with section 9375a of this title. [Repealed.]~~

17 \* \* \*

18 (17) “Health care spending estimate” means the estimate established in  
19 accordance with section 9383 of this title.

20 Sec. 8. 18 V.S.A. § 9375(b) is amended to read:

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

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\* \* \*  
  
\* \* \*

(11) Develop the ~~unified~~ health care ~~budget~~ spending estimate pursuant to section ~~9375a~~ 9383 of this title.

Sec. 9. 18 V.S.A. § 9383 is added to read:

§ 9383. EXPENDITURE ANALYSIS; HEALTH CARE SPENDING ESTIMATE

(a) The Board shall develop annually an expenditure analysis and an estimate of future health care spending covering a period of at least two years. These analyses shall contain data and information as set forth in this section that the Board shall consider and incorporate into its work in furtherance of its statutory duties, **including using them as tools in the Board’s review of health insurance rates and the budgets of hospitals and accountable care organizations.** The analyses shall:

(1) inform the Board’s regulatory processes in order to promote improved health outcomes, health care cost containment, quality of care, access to care, and appropriate resource allocation; and

(2) quantify the total amount of money that has been and is estimated to be expended for all health care services provided by health care facilities and providers in Vermont and for health care services provided to residents of this State regardless of the site of service, to the extent data are available.

1       (b) The expenditure analysis and the estimate of future health care spending  
2       shall include breakdowns for broad sectors such as hospital, physician, home  
3       health, and pharmacy and may include estimates for disease prevention and  
4       health promotion activities and other social determinants of health. The  
5       analyses shall include:

6               (1) expenditures by commercial health plans, hospital and medical  
7               service corporations, and health maintenance organizations regulated by this  
8               State; and

9               (2) expenditures for Medicare, Medicaid, self-insured employers, and  
10              other forms of health coverage, to the extent data are available.

11       (c) Annually on or before January 15, the Board shall submit the  
12       expenditure analysis and the estimate of future health care spending to the  
13       House Committees on Appropriations and on Health Care and the Senate  
14       Committees on Appropriations, on Health and Welfare, and on Finance.

15       Sec. 10. 18 V.S.A. § 9402 is amended to read:

16       § 9402. DEFINITIONS

17       As used in this chapter, unless otherwise indicated:

18   \* \* \*

19               (5) “Expenditure analysis” means the expenditure analysis developed  
20       pursuant to section ~~9375a~~ 9383 of this title.

21   \* \* \*

1 (15) ~~“Unified health care budget~~ Health care spending estimate” means  
2 the ~~budget~~ spending estimate established in accordance with section ~~9375a~~  
3 9383 of this title.

4 \* \* \*

5 Sec. 11. 32 V.S.A. § 307(d) is amended to read:

6 (d) The Governor’s budget shall include his or her recommendations for an  
7 annual budget for Medicaid and all other health care assistance programs  
8 administered by the Agency of Human Services. The Governor’s proposed  
9 Medicaid budget shall include a proposed annual financial plan, and a  
10 proposed five-year financial plan, with the following information and analysis:

11 \* \* \*

12 (5) health care inflation trends consistent with provider reimbursements  
13 approved under 18 V.S.A. § 9376 and expenditure trends reported under  
14 18 V.S.A. § ~~9375a~~ 9383;

15 \* \* \*

16 Sec. 12. REPEAL

17 18 V.S.A. § 9375a (expenditure analysis; unified health care budget) is  
18 repealed.

19 \* \* \* Delegation of Services by the Green Mountain Care Board \* \* \*

20 **(from H.668)**

21 Sec. 13. 18 V.S.A. § 9374(d) is amended to read:

1       (d)(1) The Chair shall have general charge of the offices and employees of  
2 the Board but may hire a director to oversee the administration and operation.

3       (2) A member of the Board, Board officer, or Board employee may  
4 perform any service that is within the Board’s jurisdiction and that the Board  
5 delegates to the member, officer, or employee.

6                   \* \* \* Medicaid Advisory Rate Case \* \* \*

7                   **(\*\*\* NEW \*\*\*)**

8       Sec. 14. 18 V.S.A. § 9573 is added to read:

9       § 9573. MEDICAID ADVISORY RATE CASE

10       (a) On or before December 31 of each year, the Green Mountain Care  
11 Board shall review any all-inclusive population-based payment arrangement  
12 between the Department of Vermont Health Access and an accountable care  
13 organization for following calendar year. The Board’s review shall include the  
14 number of attributed lives, eligibility groups, covered services, elements of the  
15 per-member, per-month payment, and any other nonclaims payments. The  
16 Board’s review may include deliberative sessions to the same extent permitted  
17 for insurance rate review under 8 V.S.A. § 4062.

18       (b) The review shall be nonbinding on the Agency of Human Services, and  
19 nothing in this section shall be construed to abrogate the designation of the  
20 Agency of Human Services as the single State agency as required by 42 C.F.R.  
21 § 431.10.

1       (c) The Board shall review the payment arrangement prior to the  
2       finalization of a contract between the Department and the accountable care  
3       organization and shall maintain the confidentiality of information as needed to  
4       preserve the parties' contract negotiations. The Board shall release its advisory  
5       opinion within 30 days following the finalization of the contract between the  
6       parties.

7       (d) The Department of Vermont Health Access shall provide the Board and  
8       its contractors with all data and information that the Board requests for its  
9       review within the time frame set forth by the Board.

10                                   \* \* \* Effective Dates \* \* \*

11   **(Revised )**

12       Sec. 15. EFFECTIVE DATES

13       (a) Sec. 6 (certificate of need) shall take effect on July 1, 2018, provided  
14       that for applications for a certificate of need that are already in process on that  
15       date, the rules and procedures in place at the time the application was filed  
16       shall continue to apply until a final decision is made on the application.

17       (b) The remaining sections of this act shall take effect on passage.