

1 Introduced by Committee on Human Services
2 Referred to Committee on
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 transfers in
8 Vermont. It would also eliminate the requirement for a certificate of need
9 approval prior to the transfer of ownership of a nursing home when a
10 replacement review process for the transfer of nursing home is developed, if the
11 working group can develop a replacement review process.

12 An act relating to nursing home oversight

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

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

15 ~~(a) (a)~~ Creation. There is created the Nursing Home Oversight Working
16 Group to develop an improved process to examine the oversight of nursing
17 homes in Vermont review nursing home transfers and other significant business
18 transactions that threaten the financial stability of the Vermont nursing
19 including financial stability, licensing criteria, **VHCA – and rules regarding**

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1 ~~reimbursement), in order homes~~ to ensure the provision of high-quality
2 ~~services and a safe and stable environment for nursing homehome~~ residents.

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3 (b) Membership. The Working Group shall be composed of the following

4 ~~six (VHCA – seven)~~ members:

5 (1) the Commissioner of Disabilities, Aging, and Independent Living or
6 designee, who shall be the Chair;

7 (2) the Director of the Division of Licensing and Protection in the
8 Department of Disabilities, Aging, and Independent Living or designee;

9 (3) the Director of the Division of Rate Setting in the Agency of Human
10 Services or designee;

11 ~~(4) the Chair of the Green Mountain Care Board or designee; and~~

12 ~~(54) the Vermont Attorney General or designee. ;~~

13 ~~(56) the State Long-Term Care Ombudsman or designee; and~~

14 ~~(76) one representative (VHCA – two representatives) of the nursing~~
15 ~~home industry, appointed by the Vermont Health Care Association; and,~~

16 ~~(8) one representative from the Vermont Health Care Association~~

17 (c) Powers and duties. The Working Group shall:

18 (1) ~~review the types and frequency of the financial data currently~~
19 ~~reported by nursing homes to the Division of Rate Setting; review the current~~
20 ~~oversight of nursing home transfers and identify areas of for improvement;~~
21

1 (2) review current nursing home application and licensure requirements
2 and identify any changes that are needed;

3 (3) develop a replacement to the Green Mountain Care Board certificate
4 of need review of nursing home transfers that includes an analysis of the cost
5 to perform this function;

6 ~~(2) evaluate the processes by which the Division of Rate Setting~~
7 ~~currently reviews nursing home financial data;~~

8 ~~(3) determine whether and what types of additional financial data may~~
9 ~~be necessary to evaluate nursing homes' ongoing financial stability, including~~
10 ~~cost data related to real estate lease agreements with related or other parties~~
11 ~~resulting from the separation of the entity owning the real estate from the entity~~
12 ~~operating the facility;~~

13 ~~(4) identify procedures to monitor nursing homes' ongoing financial~~
14 ~~stability and to provide for early identification of nursing homes in financial~~
15 ~~distress;~~

16 ~~(5) develop methods to address circumstances in which nursing homes~~
17 ~~are determined to be in financial distress;~~

18 ~~(64) -determine the appropriate regulatory entity or entities and the~~
19 ~~resources needed to monitor the ongoing financial stability of nursing homes;~~

20 ~~and-and~~

21 —

1 ~~(7) (VHCA – review the Division of Rate Setting’s current rules to~~
2 ~~determine whether Medicaid reimbursements to nursing homes support~~
3 ~~ongoing financial stability in order to ensure the provision of high-quality~~
4 ~~services and a safe and stable environment for nursing home residents);~~

5 ~~(8) (VHCA – identify any changes to the Division of Rating Setting’s~~
6 ~~current rules that are needed to support nursing homes’ ongoing financial~~
7 ~~stability to ensure the provision of high-quality services and a safe and~~
8 ~~stable environment for nursing home residents, and estimate the amount~~
9 ~~of associated increased costs to the Medicaid program, if any); and~~

10 ~~(9) review current nursing home application and licensure requirements~~
11 ~~and identify any changes that are needed to ensure that:~~

12 ~~(A) for the transfer of ownership of a nursing home, the purchaser~~
13 ~~has obtained the necessary financing for the transaction prior to the issuance of~~
14 ~~a license;~~

15 ~~(5) consider whether there is a need to require ongoing review of~~
16 ~~significant business transactions that could jeopardize the stability of nursing~~
17 ~~homes and if certain business transactions (i.e. sale of nursing home real estate)~~
18 ~~that warrant an approval process;~~

19 ~~(B) appropriate and objective criminal background, abuse registry,~~
20 ~~regulatory, and quality information is considered prior to issuance of initial and~~
21 ~~renewal licenses; and~~

1 ~~(C) appropriate information is disclosed through the application~~
2 ~~process to enable the identification of the ownership, controlling, and~~
3 ~~management interests in both the real estate and operations components of the~~
4 ~~nursing home.~~

5 ~~(def) Assistance. The Working Group shall have the administrative,~~
6 ~~technical, and legal assistance of the Department of Disabilities, Aging, and~~
7 ~~Independent Living and the Division of Rate Setting.~~

8 ~~(efe) Report. On or before January 15, 2019, the Working Group shall~~
9 ~~submit a written report to House Committee on Human Services and the Senate~~
10 ~~Committee on Health and Welfare that includes its findings and any~~
11 ~~recommendations for legislative action. The report shall include proposed~~
12 ~~legislation and implementation schedule as well identify any staffing or~~
13 ~~financial resources necessary for implementation.~~

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

20 ~~***~~

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

4 * * *

5 Sec. 3. EFFECTIVE DATES

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

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