

1 S.164

2 Introduced by Senator Lyons

3 Referred to Committee on

4 Date:

5 Subject: Health; Green Mountain Care Board; health insurers; billback; health  
6 care database; hospital budgets

7 Statement of purpose of bill as introduced: This bill proposes to revise a  
8 number of statutory provisions relating to the duties of the Green Mountain  
9 Care Board and the reappointment of its members. The bill would specify a  
10 date by which health insurers must report certain prescription drug information  
11 to the Board and would change the date by which the Board's report on the  
12 impact of prescription drug costs on health insurance premiums must be  
13 published on the Board's website. The bill would require the Chair of the  
14 Green Mountain Care Board to seek reappointment through the Board's full  
15 nomination and appointment process but would allow other Board members to  
16 be reappointed by the Governor with the advice and consent of the Senate.  
17 The bill would revise the Board's billback authority to allow the Board to bill  
18 back not more than 60 percent of its costs from regulated industries for all  
19 Board expenses, with the remaining 40 percent coming from State monies.  
20 The bill would also allow the Board to collect individually identifiable

1 information in the State's all-payer claims database and to impose conditions  
2 on the hospital budgets that the Board establishes.

3 An act relating to the Green Mountain Care Board's duties and  
4 reappointment processes

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

6 \* \* \* Report on Impact of Prescription Drug Costs on Premiums \* \* \*

7 Sec. 1. 18 V.S.A. § 4636 is amended to read:

8 § 4636. IMPACT OF PRESCRIPTION DRUG COSTS ON HEALTH

9 INSURANCE PREMIUMS; REPORT

10 (a)(1) ~~Each~~ On or before April 1 of each year, each health insurer with  
11 more than 1,000 covered lives in this State for major medical health insurance  
12 shall report to the Green Mountain Care Board, for all covered prescription  
13 drugs, including generic drugs, brand-name drugs, and specialty drugs,  
14 provided in an outpatient setting or sold in a retail setting during the previous  
15 calendar year:

16 \* \* \*

17 (c) The Board shall publish the report required pursuant to subsection (b) of  
18 this section on its website on or before ~~January~~ June 1 of each year.

1           \* \* \* Green Mountain Care Board; Nomination and Appointment \* \* \*

2           Sec. 2. 18 V.S.A. § 9374(b) is amended to read:

3           (b)(1) ~~The initial term of the Chair shall be seven years, and the term of~~  
4           each member, including the Chair, shall be six years ~~thereafter.~~

5           (2) ~~The term of each member other than the Chair shall be six years,~~  
6           ~~except that of the members first appointed, one each shall serve a term of three~~  
7           ~~years, four years, five years, and six years. [Repealed.]~~

8           (3) ~~Subject to the nomination and appointment process, a~~ A member  
9           may serve more than one term.

10           (A) A Chair who wishes to serve another term upon the expiration of  
11           the Chair's current term shall seek reappointment under section 9391 of this  
12           title.

13           (B) A member other than the Chair who wishes to serve another term  
14           upon the expiration of the member's current term may be reappointed by the  
15           Governor at the expiration of the member's term, subject to the advice and  
16           consent of the Senate.

17           (4) Members of the Board may be removed only for cause. The Board  
18           shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and  
19           process for removal.

1 Sec. 3. 18 V.S.A. § 9391 is amended to read:

2 § 9391. NOMINATION AND APPOINTMENT PROCESS

3 (a) Whenever a vacancy occurs on the Green Mountain Care Board, or  
4 when an incumbent does not declare ~~that he or she will be a candidate to~~  
5 ~~succeed himself or herself~~ an interest in serving another term upon the  
6 expiration of the member's current term, the Green Mountain Care Board  
7 Nominating Committee shall select for consideration by the Committee, by  
8 majority vote, provided that a quorum is present, from the applications for  
9 membership on the Green Mountain Care Board as many candidates as it  
10 deems qualified for the position or positions to be filled. The Committee shall  
11 base its determinations on the qualifications set forth in section 9392 of this  
12 section.

13 (b) The Committee shall submit to the Governor the names of the persons it  
14 deems qualified to be appointed to fill the position or positions ~~and~~. For a  
15 vacancy in the position of the Chair, the Committee shall include the name of  
16 any incumbent ~~who declares that he or she wishes to be a candidate to succeed~~  
17 ~~himself or herself~~ Chair who declares an interest in serving another term upon  
18 expiration of the Chair's current term.

19 \* \* \*

1                                   \* \* \* Green Mountain Care Board Billback \* \* \*

2           Sec. 4. 18 V.S.A. § 9374(h) is amended to read:

3                   (h)(1) ~~The Board may assess and collect from each regulated entity the~~  
4                   ~~actual costs incurred by the Board, including staff time and contracts for~~  
5                   ~~professional services, in carrying out its regulatory duties for health insurance~~  
6                   ~~rate review under 8 V.S.A. § 4062; hospital budget review under chapter 221,~~  
7                   ~~subchapter 7 of this title; and accountable care organization certification and~~  
8                   ~~budget review under section 9382 of this title. The Board may also assess and~~  
9                   ~~collect from general hospitals licensed under chapter 43 of this title expenses~~  
10                  ~~incurred by the Commissioner of Health in administering hospital community~~  
11                  ~~reports under section 9405b of this title. [Repealed.]~~

12                   (2)(A) ~~In addition to the assessment and collection of actual costs~~  
13                   ~~pursuant to subdivision (1) of this subsection and except Except as otherwise~~  
14                   ~~provided in subdivisions (2)(C) and subdivision (3) of this subsection and in~~  
15                   ~~section 9441 of this title, all other expenses of the Board shall be borne as~~  
16                   follows:

- 17                                   (i) 40 percent by the State from State monies;
- 18                                   (ii) 30 percent by the hospitals;
- 19                                   (iii) 24 percent by nonprofit hospital and medical service
- 20                   corporations licensed under 8 V.S.A. chapter 123 or 125, health insurance

1 companies licensed under 8 V.S.A. chapter 101, and health maintenance  
2 organizations licensed under 8 V.S.A. chapter 139; and

3 (iv) six percent by accountable care organizations certified under  
4 section 9382 of this title.

5 (B) Expenses under subdivision (A)(iii) of this subdivision (2) shall  
6 be allocated to persons licensed under Title 8 based on premiums paid for  
7 health care coverage, which for the purposes of this subdivision (2) shall  
8 include major medical, comprehensive medical, hospital or surgical coverage,  
9 and comprehensive health care services plans, but shall not include long-term  
10 care, limited benefits, disability, credit or stop loss, or excess loss insurance  
11 coverage.

12 ~~(C) Expenses incurred by the Board for regulatory duties associated~~  
13 ~~with certificates of need shall be assessed pursuant to the provisions of section~~  
14 ~~9441 of this title and not in accordance with the formula set forth in~~  
15 ~~subdivision (A) of this subdivision (2).~~

16 (3) The Board may determine the scope of the incurred expenses to be  
17 allocated pursuant to the formula set forth in subdivision (2) of this subsection  
18 if, in the Board's discretion, the expenses to be allocated are in the best  
19 interests of the regulated entities and of the State. Instead of the allocations set  
20 forth in subdivisions (2)(A)(ii) through (2)(A)(iv) of this subsection, the Board  
21 may assess and collect from each regulated entity up to 60 percent of the actual

1 costs incurred by the Board, including staff time and contracts for professional  
2 services, in carrying out its regulatory duties for health insurance rate review  
3 under 8 V.S.A. § 4062; hospital budget review under chapter 221, subchapter 7  
4 of this title; and accountable care organization certification and budget review  
5 under section 9382 of this title. The Board may also assess and collect from  
6 general hospitals licensed under chapter 43 of this title expenses incurred by  
7 the Commissioner of Health in administering hospital community reports  
8 under section 9405b of this title.

9 \* \* \*

10 \* \* \* Expenditure Analysis \* \* \*

11 Sec. 5. 18 V.S.A. § 9383(c) is amended to read:

12 (c) Annually on or before ~~January 15~~ April 30, the Board shall submit the  
13 expenditure analysis and the estimate of future health care spending to the  
14 House Committees on Appropriations, on Health Care, and on Human Services  
15 and the Senate Committees on Appropriations, on Health and Welfare, and on  
16 Finance.

1                                   \* \* \* Health Care Database \* \* \*

2           Sec. 6. 18 V.S.A. § 9410 is amended to read:

3           § 9410. HEALTH CARE DATABASE

4           (a)(1) The Board shall establish and maintain a unified health care database  
5           to enable the Board to carry out its duties under this chapter, chapter 220 of  
6           this title, and Title 8, including:

7                           (A) determining the capacity and distribution of existing resources;

8                           (B) identifying health care needs and informing health care policy;

9                           (C) evaluating the effectiveness of intervention programs on  
10           improving patient outcomes;

11                           (D) comparing costs between various treatment settings and  
12           approaches;

13                           (E) providing information to consumers and purchasers of health  
14           care; and

15                           (F) improving the quality and affordability of patient health care and  
16           health care coverage.

17                           (2) [Repealed.]

18           (b) The database shall contain unique patient and provider identifiers and a  
19           uniform coding system; and shall reflect all health care utilization, costs, and  
20           resources in this State; and health care utilization and costs for services  
21           provided to Vermont residents in another state.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

\* \* \*

(e) ~~Records or information protected by the provisions of the physician-patient privilege under 12 V.S.A. § 1612(a), or otherwise required by law to be held confidential, shall be filed in a manner that does not disclose the identity of the protected person. [Repealed.]~~

(f) The Board shall adopt a confidentiality code to ensure that information obtained under this section is handled in an ethical manner.

\* \* \*

(h)(1) All health insurers shall electronically provide to the Board in accordance with standards and procedures adopted by the Board by rule:

(A) their health insurance claims data, provided that the Board may exempt from all or a portion of the filing requirements of this subsection data reflecting utilization and costs for services provided in this State to residents of other states;

(B) cross-matched claims data on requested members, subscribers, or policyholders; and

(C) member, subscriber, or policyholder information necessary to determine third party liability for benefits provided.

(2) The collection, storage, and release of health care data and statistical information that are subject to the federal requirements of the Health Insurance

1 Portability and Accountability Act (HIPAA) shall be governed exclusively by  
2 the regulations adopted thereunder in 45 C.F.R. Parts 160 and 164.

3 \* \* \*

4 (3)(A) The Board shall collaborate with the Agency of Human Services  
5 and participants in the Agency's initiatives in the development of a  
6 comprehensive health care information system. The collaboration is intended  
7 to address the formulation of a description of the data sets that will be included  
8 in the comprehensive health care information system, the criteria and  
9 procedures for the development of limited-use data sets, the criteria and  
10 procedures to ensure that HIPAA compliant limited-use data sets are  
11 accessible, and a proposed time frame for the creation of a comprehensive  
12 health care information system.

13 (B) To the extent allowed by HIPAA, the data shall be available as a  
14 resource for insurers, employers, providers, purchasers of health care, and  
15 State agencies to continuously review health care utilization, expenditures, and  
16 performance in Vermont. In presenting data for public access, comparative  
17 considerations shall be made regarding geography, demographics, general  
18 economic factors, and institutional size.

19 (C) Consistent with the dictates of HIPAA, and subject to such terms  
20 and conditions as the Board may prescribe by rule, the Vermont Program for  
21 Quality in Health Care shall have access to the unified health care database for

1 use in improving the quality of health care services in Vermont. In using the  
2 database, the Vermont Program for Quality in Health Care shall agree to abide  
3 by the rules and procedures established by the Board for access to the data.  
4 The Board's rules may limit access to the database to limited-use sets of data  
5 as necessary to carry out the purposes of this section.

6 (D) Notwithstanding HIPAA or any other provision of law, the  
7 comprehensive health care information system shall not publicly disclose any  
8 data that contain direct personal identifiers. For the purposes of this section,  
9 "direct personal identifiers" include information relating to an individual that  
10 contains primary or obvious identifiers, such as the individual's name, street  
11 address, e-mail address, telephone number, and Social Security number.

12 \* \* \*

13 \* \* \* Conditional Approval of Hospital Budgets \* \* \*

14 Sec. 7. 18 V.S.A. § 9456(d) is amended to read:

15 (d)(1) Annually, the Board shall establish a budget for each hospital on or  
16 before September 15, subject to such conditions as the Board may impose in  
17 furtherance of the purposes of this subchapter, followed by a written decision  
18 by October 1. Each hospital shall operate within the budget established under  
19 this section and comply with the conditions imposed by the Board.

20 \* \* \*

1

\* \* \* Effective Date \* \* \*

2

Sec. 8. EFFECTIVE DATE

3

This act shall take effect on July 1, 2022.