

1 S.98

2 An act relating to Green Mountain Care Board authority over prescription  
3 drug costs and the Green Mountain Care Board nomination and  
4 appointment process

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

6 Sec. 1. GREEN MOUNTAIN CARE BOARD; PRESCRIPTION DRUG

7 COST REGULATION PROGRAM; IMPLEMENTATION PLAN

8 (a) The Green Mountain Care Board, in consultation with its own technical  
9 advisory groups and other State agencies, shall explore and create a framework  
10 and methodology for implementing a program to regulate the cost of  
11 prescription drugs for Vermont consumers and Vermont's health care system.  
12 The Board shall consider options for and likely impacts of regulating the cost  
13 of prescription drugs, including:

14 (1) the experiences of states that have developed prescription drug  
15 affordability boards;

16 (2) the Centers for Medicare and Medicaid Services' development and  
17 operation of the Medicare Drug Price Negotiation Program;

18 (3) other promising federal and state strategies for lowering prescription  
19 drug costs;

20 (4) the Board's existing authority to set rates, adopt rules, and establish  
21 technical advisory groups;

22 (5) the likely return on investment of the most promising program  
23 options;

1           (6) the potential impacts on Vermonters' access to medications; and

2           (7) the impact of implementing a program to regulate the costs of  
3 prescription drugs on other State agencies and on the private sector.

4           (b)(1) On or before January 15, 2025, the Board shall provide its  
5 preliminary plan for implementing a program to regulate the cost of  
6 prescription drugs in Vermont, and any proposals for legislative action needed  
7 to implement the program, to the House Committee on Health Care and the  
8 Senate Committee on Health and Welfare.

9           (2) On or before January 15, 2026, the Board shall provide its final plan  
10 for implementing a program to regulate the cost of prescription drugs in  
11 Vermont, along with proposals for addressing any additional identified  
12 legislative needs, to the House Committee on Health Care and the Senate  
13 Committee on Health and Welfare.

14           (c)(1) The following permanent classified positions are created at the Green  
15 Mountain Care Board to lead the exploration, development, and  
16 implementation of the prescription drug regulation program:

17                   (A) one Director of Prescription Drug Pricing; and

18                   (B) one Policy Analyst Prescription Drug Pricing.

19           (2) The sum of \$245,000.00 is appropriated to the Green Mountain Care  
20 Board from the Evidence-Based Education and Advertising Fund in fiscal year  
21 2025 for the positions created in this subsection.

1        (d)(1) The Green Mountain Care Board shall have legal assistance as  
2        needed from the Office of the Attorney General.

3        (2) The sum of \$250,000.00 is appropriated to the Green Mountain Care  
4        Board from the Evidence-Based Education and Advertising Fund in fiscal year  
5        2025 to contract with experts on prescription drug-related issues to assist the  
6        Board in its work under this section.

7        Sec. 2. 33 V.S.A. § 2004 is amended to read:

8        § 2004. MANUFACTURER FEE

9        (a) Annually, each pharmaceutical manufacturer or labeler of prescription  
10       drugs that are paid for by the Department of Vermont Health Access for  
11       individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee  
12       to the Agency of Human Services. The fee shall be 1.75 percent of the  
13       previous calendar year's prescription drug spending by the Department and  
14       shall be assessed based on manufacturer labeler codes as used in the Medicaid  
15       rebate program.

16       (b) Fees collected under this section shall fund collection and analysis of  
17       information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632  
18       and 4633; analysis of prescription drug data needed by the Office of the  
19       Attorney General for enforcement activities; the Vermont Prescription  
20       Monitoring System established in 18 V.S.A. chapter 84A; the evidence-based  
21       education program established in 18 V.S.A. chapter 91, subchapter 2; the

1 Green Mountain Care Board's prescription drug cost regulation initiatives;  
2 statewide unused prescription drug disposal initiatives; prevention of  
3 prescription drug misuse, abuse, and diversion; the Substance Misuse  
4 Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803;  
5 treatment of substance use disorder; exploration of nonpharmacological  
6 approaches to pain management; a hospital antimicrobial program for the  
7 purpose of reducing hospital-acquired infections; the purchase and distribution  
8 of fentanyl testing strips; the purchase and distribution of naloxone to  
9 emergency medical services personnel; and any opioid-antagonist education,  
10 training, and distribution program operated by the Department of Health or its  
11 agents. The fees shall be collected in the Evidence-Based Education and  
12 Advertising Fund established in section 2004a of this title.

13 (c) The Secretary of Human Services or designee shall ~~make~~ adopt rules for  
14 the implementation of this section.

15 (d) The Department shall maintain on its website a list of the manufacturers  
16 who have failed to provide timely payment as required under this section.

17 Sec. 3. 33 V.S.A. § 2004a is amended to read:

18 § 2004a. EVIDENCE-BASED EDUCATION AND ADVERTISING FUND

19 (a) The Evidence-Based Education and Advertising Fund is established in  
20 the State Treasury as a special fund to be a source of financing for activities  
21 relating to fund collection and analysis of information on pharmaceutical

1 marketing activities under 18 V.S.A. §§ 4632 and 4633; for analysis of  
2 prescription drug data needed by the Office of the Attorney General for  
3 enforcement activities; for the Vermont Prescription Monitoring System  
4 established in 18 V.S.A. chapter 84A; for the evidence-based education  
5 program established in 18 V.S.A. chapter 91, subchapter 2; for the Green  
6 Mountain Care Board's prescription drug cost regulation initiatives; for  
7 statewide unused prescription drug disposal initiatives; for the prevention of  
8 prescription drug misuse, abuse, and diversion; for the Substance Misuse  
9 Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803;  
10 for treatment of substance use disorder; for exploration of nonpharmacological  
11 approaches to pain management; for a hospital antimicrobial program for the  
12 purpose of reducing hospital-acquired infections; for the purchase and  
13 distribution of fentanyl testing strips; for the purchase and distribution of  
14 naloxone to emergency medical services personnel; and for the support of any  
15 opioid-antagonist education, training, and distribution program operated by the  
16 Department of Health or its agents. Monies deposited into the Fund shall be  
17 used for the purposes described in this section.

18 \* \* \*

19 Sec. 4. 18 V.S.A. chapter 220 is amended to read:

20 CHAPTER 220. GREEN MOUNTAIN CARE BOARD

21 \* \* \*

1 § 9374. BOARD MEMBERSHIP; AUTHORITY

2 \* \* \*

3 (b)(1) The ~~initial~~ term of each member of the Board, including the Chair,  
4 shall be ~~seven years, and the term of 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~~ Any appointment to fill a vacancy  
8 shall be for the unexpired portion of the term vacated.

9 (3) ~~Subject to the nomination and appointment process, a~~ A member  
10 may serve more than one term. A member may be reappointed to additional  
11 terms subject to the requirements of section 9391 of this title.

12 \* \* \*

13 § 9390. GREEN MOUNTAIN CARE BOARD NOMINATING

14 COMMITTEE CREATED; COMPOSITION

15 \* \* \*

16 (f) ~~The Board is authorized to use the staff and services of appropriate State~~  
17 ~~agencies and departments as necessary to conduct investigations of applicants~~  
18 The Committee shall have the administrative, technical, and legal assistance of  
19 the Department of Human Resources.

20 § 9391. NOMINATION AND APPOINTMENT PROCESS

21 (a) ~~Whenever~~ Candidate selection process.

1           (1) Unless a vacancy is filled by reappointment by the Governor  
2           pursuant to subsection (c) of this section, not later than 90 days prior to a  
3           known vacancy occurs occurring on the Green Mountain Care Board, or when  
4           an incumbent does not declare that he or she will be a candidate to succeed  
5           himself or herself, the Green Mountain Care Board Nominating Committee  
6           shall commence its nomination application process. The Committee shall  
7           select for consideration by the Committee, by majority vote, and provided that  
8           a quorum is present, from the applications for membership on the Green  
9           Mountain Care Board as many candidates as it deems qualified for the position  
10           or positions to be filled. The Committee shall base its determinations on the  
11           qualifications set forth in section 9392 of this section title.

12           (2) A Board member who is resigning from the Board prior to the  
13           expiration of the member's term shall notify the Committee Chair, the  
14           Governor, and the Department of Human Resources of the member's  
15           anticipated resignation date. Once notified, the Committee Chair shall  
16           commence the nomination application process as soon as is practicable in light  
17           of the anticipated resignation date.

18           (b) Nomination list. The Committee shall submit to the Governor the  
19           names of the ~~persons~~ individuals it deems qualified to be appointed to fill the  
20           position or positions and the name of any incumbent member who was not  
21           reappointed pursuant to subsection (c) of this section and who declares notifies

1 the Committee Chair, the Governor, and the Department of Human Resources  
2 that ~~he or she~~ the incumbent wishes to be a candidate to succeed himself or  
3 herself nominated. An incumbent shall not be required to submit an  
4 application for nomination and appointment to the Committee under subsection  
5 (a) of this section, but the Committee may request that the incumbent update  
6 relevant information as necessary.

7 (c) Reappointment; notification.

8 (1) Not later than 120 days prior to the end of a Board member's term,  
9 the member shall notify the Governor that the member either is seeking to be  
10 reappointed by the Governor for another term or that the member does not  
11 wish to be reappointed.

12 (2) If a Board member who is seeking reappointment is not reappointed  
13 by the Governor on or before 30 days after notifying the Governor, the  
14 member's term shall end on the expiration date of the member's current term,  
15 unless the member is nominated as provided in subsection (b) of this section  
16 and subsequently appointed, or as otherwise provided by law.

17 (3) A Board member's reappointment shall be subject to the consent of  
18 the Senate.

19 (d) The Appointment; Senate consent. Unless the Governor reappointed a  
20 Board member pursuant to subsection (c) of this section, the Governor shall  
21 make an appointment to the Green Mountain Care Board from the list of



1 qualified candidates submitted pursuant to subsection (b) of this section not  
2 later than 45 days after receipt of the candidate list. The appointment shall be  
3 subject to the consent of the Senate. The names of candidates submitted and  
4 not selected shall remain confidential.

5 ~~(d)~~(e) Confidentiality. All proceedings of the Committee, including the  
6 names of candidates considered by the Committee and information about any  
7 candidate submitted by any source, shall be confidential.

8 Sec. 5. EFFECTIVE DATES

9 (a) Sec. 4 (18 V.S.A. chapter 220; Green Mountain Care Board nomination  
10 and appointment process) and this section shall take effect on passage.  
11 Notwithstanding any provision of 18 V.S.A. chapter 220, as amended by this  
12 act, to the contrary, the Green Mountain Care Board Nominating Committee,  
13 in consultation with the Green Mountain Care Board, the Department of  
14 Human Resources, and the Governor, may establish alternative timing  
15 requirements for applications, appointments, and reappointments to the Board  
16 for Board vacancies anticipated to occur or otherwise occurring on or before  
17 December 31, 2024 if the timelines established in 18 V.S.A. chapter 220, as  
18 amended by this act, would be impractical or impossible to meet.

19 (b) The remaining sections shall take effect on July 1, 2024.