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S.189

An act relating to establishing a process for the elimination of certain hospital services

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

Sec. 1. 18 V.S.A. § 9405d is added to read:

§ 9405d. HOSPITAL SERVICE ELIMINATIONS; NOTICE REQUIRED

(a)(1)(A) A hospital that is considering eliminating any of the following services shall provide a preliminary notice of intent to the Agency of Human Services, the Green Mountain Care Board, and the Office of the Health Care Advocate as set forth in subdivision (B) of this subdivision (1):

(i) emergency department services;

(ii) primary care services, including closing a site at which primary care services are provided;

(iii) obstetrics;

(iv) perinatal care;

(v) inpatient psychiatric services;

(vi) treatment for substance use disorder, including medication for opioid use disorder;

(vii) dialysis, including closing a site at which dialysis services are provided; or

(viii) inpatient pediatric services.

1 (B) The information to be provided by the hospital in its preliminary
2 notice of intent shall include:

3 (i) the rationale for the proposed elimination;

4 (ii) the financial impacts on the hospital both of maintaining the
5 service and of eliminating the service; and

6 (iii) a description of all possible alternatives to the proposed
7 elimination that were considered and the reasons they were not pursued.

8 (2) The Agency of Human Services shall evaluate the information
9 provided by the hospital in its preliminary notice of intent pursuant to
10 subdivision (1) of this subsection, the financial impact of the proposed
11 elimination on Vermont's health care system, and the impact of the proposed
12 elimination on access to health care services in the region.

13 (3)(A) The Agency and the Green Mountain Care Board may consult
14 with a hospital that has submitted a preliminary notice of intent pursuant to
15 subdivision (1) of this subsection (a) regarding the proposed elimination in
16 order to explore opportunities to maintain the service or otherwise to address
17 the circumstances that prompted the proposed elimination.

18 (B) A hospital that is considering eliminating any service other than
19 those listed in subdivisions (1)(A)(i)–(viii) of this subsection (a) may choose to
20 provide a preliminary notice of intent to the Agency of Human Services and
21 the Green Mountain Care Board that includes the information described in

1 subdivision (1)(B) of this subsection (a) and to engage with the Agency and the
2 Board in the consultation process set forth in subdivision (A) of this
3 subdivision (3).

4 (4) All information and materials related to a preliminary notice of
5 intent and related consultation pursuant to this subsection, including all
6 materials provided by the hospital to the Agency or the Board, shall be exempt
7 from public inspection and copying under the Public Records Act and shall be
8 kept confidential, except that the Agency and the Board shall provide access to
9 information and materials related to the proposed elimination of a service
10 described in subdivisions (1)(A)(i)–(viii) of this subsection to the Office of the
11 Health Care Advocate, which shall not further disclose this confidential
12 information.

13 (b)(1) If a hospital elects to proceed with the proposed elimination of a
14 service described in subdivisions (a)(1)(A)(i)–(viii) of this section after
15 engaging in the processes set forth in subsection (a) of this section, then within
16 90 days after the hospital provided the preliminary notice of intent required by
17 subdivision (a)(1) of this section or upon the conclusion of the confidential
18 consultation process set forth in subdivisions (a)(3) and (4) of this section,
19 whichever occurs first, the hospital shall provide a notice of intent to the
20 Agency of Human Services, the Green Mountain Care Board, the Office of the

1 Health Care Advocate, and the members of the General Assembly who
2 represent the hospital service area.

3 (2) The notice of intent required by subdivision (1) of this subsection
4 shall:

5 (A) explain the rationale for the proposed elimination;

6 (B) set forth a proposed timeline for the proposed elimination and a
7 transition plan;

8 (C) be provided not less than 60 days prior to the effective date of the
9 proposed elimination;

10 (D) be posted on the hospital's website; and

11 (E) be published in a newspaper of general circulation in the hospital
12 service area within 10 days after notice is provided pursuant to subdivision (1)
13 of this subsection (b).

14 (3) In addition to the notice of intent required by subdivision (1) of this
15 subsection, the hospital shall conduct a public engagement process, including
16 holding one or more public hearings in the county in which the hospital is
17 located and soliciting and responding to public comments, regarding the
18 proposed service elimination. The public engagement process shall continue
19 for not less than 30 days following the notice required pursuant to subdivision
20 (1) of this subsection. The hospital shall provide a summary of the
21 community's response to the proposal, including the public comments

1 received, to the Agency of Human Services, the Green Mountain Care Board,
2 and the Office of the Health Care Advocate following the conclusion of the
3 public engagement process.

4 (c) If a hospital elects to proceed with eliminating a service described in
5 subdivisions (a)(1)(A)(i)–(viii) of this section after completing the processes
6 set forth in subsections (a) and (b) of this section, then within five business
7 days after making the decision to proceed, the hospital shall notify the Agency
8 of Human Services to inform the Agency’s health care system transformation
9 efforts and the Statewide Health Care Delivery Strategic Plan and the Green
10 Mountain Care Board to enable the Board to review the impact on the
11 hospital’s budget pursuant to subdivision 9456(e)(2) of this title.

12 Sec. 2. 18 V.S.A. § 9456 is amended to read:

13 § 9456. BUDGET REVIEW

14 * * *

15 (e)(1) The Board, in consultation with the Vermont Program for Quality in
16 Health Care, shall utilize mechanisms to measure hospital costs, quality, and
17 access and alignment with the Statewide Health Care Delivery Strategic Plan,
18 once established.

19 ~~(2)(A) Except as provided in subdivision (D) of this subdivision (e)(2), a~~
20 ~~hospital that proposes to reduce or eliminate any service in order to comply~~
21 ~~with a budget established under this section shall provide a notice of intent to~~

1 ~~the Board, the Agency of Human Services, the Office of the Health Care~~
2 ~~Advocate, and the members of the General Assembly who represent the~~
3 ~~hospital service area not less than 45 days prior to the proposed reduction or~~
4 ~~elimination.~~

5 ~~(B) The notice shall explain the rationale for the proposed reduction~~
6 ~~or elimination and describe how it is consistent with the Statewide Health Care~~
7 ~~Delivery Strategic Plan, once established, and the hospital's most recent~~
8 ~~community health needs assessment conducted pursuant to section 9405a of~~
9 ~~this title and 26 U.S.C. § 501(r)(3).~~

10 ~~(C) The Board may evaluate the proposed reduction or elimination for~~
11 ~~consistency with the Statewide Health Care Delivery Strategic Plan, once~~
12 ~~established and the community health needs assessment, and may modify the~~
13 ~~hospital's budget or take such additional actions as the Board deems~~
14 ~~appropriate to preserve access to necessary services.~~

15 ~~(D) A service that has been identified for reduction or elimination in~~
16 ~~connection with the transformation efforts undertaken by the Board and the~~
17 ~~Agency of Human Services pursuant to 2022 Acts and Resolves No. 167 does~~
18 ~~not need to comply with subdivisions (A)–(C) of this subdivision (e)(2).~~

19 Upon receipt of notification from a hospital pursuant to subsection
20 9405d(c) of this title that the hospital intends to eliminate a service following
21 its completion of the process set forth in subsections 9405d(a) and (b) of this

1 title, the Board shall review the impact of the elimination on the hospital's
2 approved budget. The Board may adjust the hospital's budget as necessary to
3 reflect the elimination, which may include directing that any savings related to
4 the elimination are reflected in health insurance premiums or are reinvested in
5 primary care, prevention, and other community-based services.

6 (3) The Board, ~~in collaboration with the Department of Financial~~
7 ~~Regulation,~~ shall monitor the implementation of any ~~authorized decrease in~~
8 elimination of hospital services to determine its benefits to Vermonters or to
9 Vermont's health care system, or both.

10 * * *

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on passage.