

**S.189, An act relating to establishing a process for reducing or eliminating hospital services – Senate version **showing markup from House Proposal of Amendment****

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

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

3 § 9405d. HOSPITAL SERVICE **REDUCTIONS ELIMINATIONS:**

4 NOTICE REQUIRED

5 (a)(1)(A) A hospital that ~~proposes to intentionally reduce or eliminate any~~  
6 ~~service shall:~~ **is considering eliminating any of the following services shall**  
7 **provide a preliminary notice of intent to the Agency of Human Services,**  
8 **the Green Mountain Care Board, and the Office of the Health Care**  
9 **Advocate as set forth in subdivision (B) of this subdivision (1):**

10 **(i) emergency department services;**

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

13 **(iii) obstetrics;**

14 **(iv) perinatal care;**

15 **(v) inpatient psychiatric services;**

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

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

1 **(viii) inpatient pediatric services.**

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

4 **(i) the rationale for the proposed elimination;**

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

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

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

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

20 **(B) A hospital that is considering eliminating any service other**  
21 **than those listed in subdivisions (1)(A)(i)–(viii) of this subsection (a) may**

1 **choose to provide a preliminary notice of intent to the Agency of Human**  
2 **Services and the Green Mountain Care Board that includes the**  
3 **information described in subdivision (1)(B) of this subsection (a) and to**  
4 **engage with the Agency and the Board in the consultation process set**  
5 **forth in subdivision (A) of this subdivision (3).**

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

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

1           ~~(1)~~ **(1)** provide a notice of intent to the Agency of Human Services, the  
2           Green Mountain Care Board, the Office of the Health Care Advocate, and the  
3           members of the General Assembly who represent the hospital service area **not**  
4           less than 60 days prior to the proposed reduction or elimination.

5           **(2)** The notice **of intent required by subdivision (1) of this subsection**  
6           shall:

7           **(A)** explain the rationale for the proposed reduction or elimination  
8           and describe how it is consistent with the Statewide Health Care Delivery  
9           Strategic Plan, once established, and the hospital's most recent community  
10           health needs assessment conducted pursuant to section 9405a of this title and  
11           26 U.S.C. § 501(r)(3);

12           **(B)** set forth a proposed timeline for the proposed elimination  
13           and a transition plan;

14           **(C)** be provided not less than 60 days prior to the effective date of  
15           the proposed elimination;

16           ~~(2)(D)~~ **(D)** be posted the notice of intent on the hospital's website beginning  
17           on or before the day on which the notice is provided pursuant to subdivision  
18           (1) of this subsection; and

19           ~~(3)(E)~~ **(E)** be published the notice in a newspaper of general circulation in  
20           the hospital service area within 10 days after notice is provided pursuant to  
21           subdivision (1) of this subsection (b).

1           **(3) In addition to the notice of intent required by subdivision (1) of**  
2 **this subsection, the hospital shall** conduct a public engagement process,  
3 including holding one or more public hearings in the county in which the  
4 hospital is located and soliciting and responding to public comments, regarding  
5 the proposed service ~~reduction or~~ elimination. The public engagement process  
6 may begin prior to providing the notice required by subdivision (1) of this  
7 subsection and shall continue for not less than 30 days following the notice  
8 **required pursuant to subdivision (1) of this subsection.** The hospital shall  
9 provide a summary of the community’s response to the proposal, including the  
10 public comments received, to the Agency of Human Services, **the Green**  
11 **Mountain Care Board, and the Office of the Health Care Advocate**  
12 following the conclusion of the public engagement process.

13           ~~(b) The Agency of Human Services shall:~~

14           ~~(1) analyze each proposed service reduction or elimination for~~  
15 ~~consistency with the Statewide Health Care Delivery Strategic Plan, once~~  
16 ~~established, and the community health needs assessment;~~

17           ~~(2) consider the community’s response and the impact of the proposal~~  
18 ~~on access to necessary care and services in the hospital service area; and~~

19           ~~(3) provide nonbinding recommendations regarding the proposed~~  
20 ~~reduction or elimination to the hospital, the Green Mountain Care Board, and~~  
21 ~~the public.~~



1 hospital service area not less than 45 days prior to the proposed reduction or  
2 elimination.

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

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

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

17 Upon receipt of notification from a hospital pursuant to subsection  
18 9405d(c) of this title that the hospital intends to **reduce or** eliminate a service  
19 following its completion of the process set forth in subsections 9405d(a) **and**  
20 **(b)** of this title, the Board shall review the impact of the **reduction or**  
21 elimination on the hospital's approved budget. The Board may adjust the

1 hospital's budget as necessary to reflect the elimination ~~or reduction~~, which  
2 may include directing that any savings related to the ~~reduction or~~ elimination  
3 are ~~returned to Vermonters to address affordability concerns or to payers to be~~  
4 reflected in health insurance premiums or are reinvested in primary care,  
5 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~~  
8 ~~reduction in or~~ elimination of hospital services to determine its benefits to  
9 Vermonters or to Vermont's health care system, or both.

10 \* \* \*

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on passage.

13 **New bill title:** "An act relating to establishing a process for the elimination of  
14 certain hospital services"