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H.822

Introduced by Representatives Morrissey of Bennington, Turner of Milton,
Bancroft of Westford, Baser of Bristol, Batchelor of Derby,
Beyor of Highgate, Canfield of Fair Haven, Devereux of Mount
Holly, Frenier of Chelsea, Gage of Rutland City, Gamache of
Swanton, Graham of Williamstown, Harrison of Chittenden,
Higley of Lowell, LaClair of Barre Town, Lawrence of Lyndon,
Marcotte of Coventry, Martel of Waterford, Myers of Essex,
Pearce of Richford, Savage of Swanton, Smith of New Haven,
Strong of Albany, Terenzini of Rutland Town, and Viens of
Newport City

Referred to Committee on

Date:

Subject: Health; health care facilities; certificate of need

Statement of purpose of bill as introduced: This bill proposes to repeal

Vermont's certificate of need laws.

An act relating to repealing Vermont's certificate of need laws

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

2 * * * Repeal of Certificate of Need Laws * * *

3 Sec. 1. REPEAL

4 18 V.S.A. chapter 221, subchapter 5 (health facility planning) is repealed.

5 * * * Conforming Amendments * * *

6 Sec. 2. 8 V.S.A. § 5107 is amended to read:

7 § 5107. POWERS OF HEALTH MAINTENANCE ORGANIZATIONS

8 (a) Health maintenance organizations may:

9 (1) Buy, sell, lease, encumber, construct, renovate, operate, or maintain
10 hospitals, health care clinics, other health care facilities, and other real and
11 personal property ~~which~~ that is incidental to and reasonably necessary for the
12 transaction of the business and for the accomplishment of the purposes of the
13 organization ~~if a certificate of need is obtained in accordance with 18 V.S.A.~~
14 ~~chapter 221.~~

15 (2) Furnish health care services through providers employed by or under
16 contract with the organization. ~~No new health care project shall be offered~~
17 ~~without first obtaining a certificate of need in accordance with 18 V.S.A.~~
18 ~~chapter 221.~~

19 * * *

20 Sec. 3. 16 V.S.A. § 3851(c) is amended to read:

21 (c) "Eligible institution" means any:

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* * *

(5)(A) nonprofit hospital as defined in 18 V.S.A. § 1902;

* * *

(D) nonprofit assisted living facility, nonprofit continuing care retirement facility, nonprofit residential care facility, or similar nonprofit facility for the continuing care of elders or the infirm, provided that such facility is owned by or under common ownership with an otherwise eligible institution, ~~and in the case of facilities to be financed for an eligible institution provided by this subdivision (5) of this subsection, for which the Green Mountain Care Board, if required, has issued a certificate of need.~~

Sec. 4. 18 V.S.A. § 4632(a) is amended to read:

(a)(1)(A) Annually on or before April 1 of each year, every manufacturer of prescribed products shall disclose to the Office of the Attorney General for the preceding calendar year the value, nature, purpose, and recipient information of any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider or to a member of the Green Mountain Care Board established in chapter 220 of this title, except:

* * *

(vi) Loans of medical devices for short-term trial periods pursuant to subdivision 4631a(b)(2)(B) of this title, provided the loan results in the purchase, lease, or other comparable arrangement of the medical device ~~after~~

1 ~~issuance of a certificate of need pursuant to chapter 221, subchapter 5 of this~~
2 ~~title.~~

3 * * *

4 Sec. 5. 18 V.S.A. § 9351(d) is amended to read:

5 (d) ~~The Health Information Technology Plan shall serve as the framework~~
6 ~~within which the Green Mountain Care Board reviews certificate of need~~
7 ~~applications for information technology under section 9440b of this title. In~~
8 ~~addition, the Commissioner of Information and Innovation shall use the Health~~
9 ~~Information Technology Plan as the basis for independent review of State~~
10 ~~information technology procurements.~~

11 Sec. 6. 18 V.S.A. § 9375(b) is amended to read:

12 (b) The Board shall have the following duties:

13 * * *

14 (8) ~~Review and approve, approve with conditions, or deny applications~~
15 ~~for certificates of need pursuant to chapter 221, subchapter 5 of this title,~~
16 ~~beginning January 1, 2013. [Repealed.]~~

17 * * *

18 Sec. 7. 18 V.S.A. § 9375a(b)(3) is amended to read:

19 (3) The Board's projections prepared under this subsection shall be used
20 as a tool in the evaluation of health insurance rate and trend filings with the
21 Department of Financial Regulation, and shall be made available in connection

1 with the hospital budget review process under chapter 221, subchapter 7 of this
2 ~~chapter, the certificate of need process under subchapter 5 of this chapter, title~~
3 and the development of the Health Resource Allocation Plan.

4 Sec. 8. 33 V.S.A. § 1901g(c) is amended to read:

5 (c) As used in this section:

6 (1) “Home health agency” means an entity that has received ~~a certificate~~
7 ~~of need~~ authorization from the State to provide home health services and is
8 certified to provide services pursuant to 42 U.S.C. § 1395x(o).

9 * * *

10 Sec. 9. 33 V.S.A. § 1951 is amended to read:

11 § 1951. DEFINITIONS

12 As used in this subchapter:

13 * * *

14 (6) “Home health agency” means an entity that has received ~~a certificate~~
15 ~~of need~~ authorization from the State to provide home health services or is
16 certified to provide services pursuant to 42 U.S.C. § 1395x(o), or both.

17 * * *

18 Sec. 10. 33 V.S.A. § 6304(c) is amended to read:

19 (c) ~~Designations for new home health agencies shall be established~~
20 ~~pursuant to certificates of need approved by the Green Mountain Care Board.~~

1 ~~Thereafter, designations shall be subject to the provisions of this subchapter.~~

2 [Repealed.]

3 * * * Effective Date * * *

4 Sec. 11. EFFECTIVE DATE

5 This act shall take effect on July 1, 2018 and any certificate of need
6 applications pending as of that date shall be deemed approved.