

1 S.245

2 Introduced by Senators Ashe and Sirotkin

3 Referred to Committee on Health and Welfare

4 Date: January 5, 2016

5 Subject: Health; Attorney General; Green Mountain Care Board; hospitals;
6 physicians; consumers

7 Statement of purpose of bill as introduced: This bill proposes to require
8 disclosure to the Attorney General and the Green Mountain Care Board of
9 affiliations between physicians and hospitals or hospital systems and would
10 require hospitals to report their affiliations annually as part of the hospital
11 budget review process. Physicians who newly affiliate with a hospital or
12 hospital system would be required to notify their patients of the new
13 relationship and its potential impact on patients, including any increased
14 financial liability. The bill would require the Director of Health Care Reform
15 to review recent physician and hospital affiliations to determine whether
16 physician acquisition by hospitals increases the amounts patients pay for
17 outpatient health care services.

18 ~~An act relating to disclosure of health care provider affiliations~~

An act relating to notice to patients of new health care provider affiliations

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

2 ~~Sec. 1. 18 V.S.A. chapter 221, subchapter 11 is added to read.~~

3 Subchapter 11. Affiliation with Hospitals and Hospital Systems

4 § 9481. DEFINITIONS

5 As used in this subchapter:

6 (1) "Affiliation" means a relationship between two or more health care
7 providers, including hospitals and hospital systems, in which one health care
8 provider controls or is controlled by another health care provider.

9 (2) "Group practice" means the practice of medicine by a group of
10 physicians who share their premises and other resources.

11 (3) "Health care provider" shall have the same meaning as in
12 section 9432 of this title.

13 (4) "Hospital" means a general hospital licensed under chapter 43 of this
14 title.

15 (5) "Hospital system" means a network of health care facilities owned
16 by or otherwise affiliated with a hospital.

17 § 9482. NOTICE OF AFFILIATION WITH HOSPITAL OR HOSPITAL

18 SYSTEM

19 (a) It is essential that the Attorney General and the Green Mountain Care
20 Board be informed of affiliations between health care providers in order to
21 allow the Attorney General to monitor for potentially anticompetitive practices.

1 ~~and to assist the Board in ensuring that high quality health care is delivered in a~~
2 cost-effective manner. Parties shall notify the Attorney General and the Green
3 Mountain Care Board in writing at least 30 days prior to the effective date of a
4 transaction that will result in an affiliation between:

5 (1) one or more independent physicians and a hospital or hospital
6 system;

7 (2) a group practice and a hospital or hospital system; or

8 (3) one hospital or hospital system and another hospital or hospital
9 system.

10 (b) The written notice required by this section shall include:

11 (1) the identities of all parties involved;

12 (2) a description of the nature of the proposed relationship among the
13 parties;

14 (3) the name or names of the business entities that will provide health
15 care services after the affiliation takes effect;

16 (4) the address of each location at which health care services will be
17 provided after the affiliation takes effect;

18 (5) a description of the health care services to be provided at each
19 location; and

20 (6) the primary service area to be served by each location.

~~§ 9483. ANNUAL REPORTING OF AFFILIATIONS~~

~~As part of its annual budget review pursuant to subchapter 7 of this chapter, each hospital shall report to the Green Mountain Care Board its affiliation with any other hospital or hospital system, whether located within or outside this State. For each affiliation, the report shall include:~~

~~(1) the name and address of each party to the affiliation;~~

~~(2) a description of the nature of the relationship among the parties;~~

~~(3) the name of each business entity that provides health care services as part of the affiliation, including the address of each location at which health care services are provided;~~

~~(4) a description of the health care services provided at each location; and~~

~~(5) the primary service area served by each location.~~

§ 9484. NOTICE TO PATIENTS OF NEW AFFILIATION

If a transaction results in a new affiliation between one or more independent physicians or a group practice and a hospital or hospital system, the physician or practice shall provide written notice of the new affiliation to each patient served by the physician or practice within the previous three-year period. The notice shall be provided by first class mail within 30 days following the effective date of the transaction and shall include the following information:

1 ~~(1) a statement that the physician or group practice is now affiliated with~~
2 ~~a hospital or hospital system;~~

3 ~~(2) the purchasing hospital or hospital system's name, business address,~~
4 ~~and telephone number;~~

5 ~~(3) a statement indicating whether a newly hospital-affiliated physician~~
6 ~~or practice bills, or is likely to bill, a facility fee that may be in addition to, and~~
7 ~~separate from, the provider's professional fees;~~

8 ~~(4) an estimate of any increase to the professional fees resulting from~~
9 ~~the transaction that will likely be billed to the patient;~~

10 ~~(5) a statement that the patient's actual financial liability will depend on~~
11 ~~the health care services provided to the patient;~~

12 ~~(6) an explanation of whether the patient may incur greater financial~~
13 ~~liability than if the physician or group practice were not affiliated with the~~
14 ~~hospital or hospital system; and~~

15 ~~(7) the estimated changes in fees that the facility may bill or an example~~
16 ~~of the average fees it bills for its most common services.~~

17 § 9485. REFERRALS TO AFFILIATED PROVIDERS

18 A health care provider shall provide notice when referring a patient to an
19 affiliated provider. Such notice shall:

1 ~~(1) inform the patient that he or she is not required to see the affiliated~~
2 ~~provider and that the patient has the right to seek care from the health care~~
3 ~~provider of his or her choice; and~~

4 ~~(2) provide the website and toll-free telephone number of the patient's~~
5 ~~health insurance carrier to enable the patient to obtain information regarding~~
6 ~~in-network health care providers and estimated out-of-pocket costs, if any, for~~
7 ~~the referred services.~~

8 Sec. 2. 18 V.S.A. § 9454 is amended to read:

9 § 9454. HOSPITALS; DUTIES

10 (a) Hospitals shall file the following information at the time and place and
11 in the manner established by the ~~board~~ Board:

12 * * *

13 (6) known depreciation schedules on existing buildings, a four-year
14 capital expenditure projection, and a one-year capital expenditure plan; ~~and~~

15 ~~(7) affiliations with other hospitals and health systems, as described in~~
16 ~~section 9483 of this title; and~~

17 ~~(7)(8) such other information as the ~~board~~ Board may require.~~

18 (b) Hospitals shall adopt a fiscal year which shall begin on October 1.

19 Sec. 3. 18 V.S.A. § 9456(g) is amended to read:

20 (g) The Board may request, and a hospital shall provide, information
21 determined by the Board to be necessary to determine whether the hospital is

1 ~~operating within a budget established under this section. For purposes of this~~
2 subsection, subsection (h) of this section, and subdivision ~~9454(a)(7)~~
3 9454(a)(8) of this title, the Board's authority shall extend to an affiliated
4 corporation or other person in the control of or controlled by the hospital to the
5 extent that such authority is necessary to carry out the purposes of this
6 subsection, subsection (h) of this section, or subdivision ~~9454(a)(7)~~ 9454(a)(8)
7 of this title. As used in this subsection, a rebuttable presumption of "control"
8 is created if the entity, hospital, or other person, directly or indirectly, owns,
9 controls, holds with the power to vote, or holds proxies representing 20 percent
10 or more of the voting securities or membership interest or other governing
11 interest of the hospital or other controlled entity.

12 Sec. 4. REVIEW OF HEALTH CARE PROVIDER AFFILIATIONS

13 The Director of Health Care Reform in the Agency of Administration shall
14 review all new affiliations between independent physicians or group practices
15 and hospitals and hospital systems during calendar years 2012–2016 to
16 determine whether physician acquisition by a hospital or hospital system
17 increases the amount patients pay for outpatient health care services. On or
18 before January 15, 2017, the Director shall report his or her findings to the
19 House Committee on Health Care and the Senate Committees on Health and
20 Welfare and on Finance.

~~1 Sec. 5. EFFECTIVE DATES~~

~~2 (a) Sec. 1 (18 V.S.A. chapter 221, subchapter 11) shall take effect as~~
~~3 follows:~~

~~4 (1) 18 V.S.A. §§ 9481 (definitions), 9482 (notice to Attorney General~~
~~5 and Green Mountain Care Board), and 9483 (annual reporting of affiliations)~~
~~6 shall take effect on passage; and~~

~~7 (2) 18 V.S.A. §§ 9484 (notice to patients) and 9485 (referrals to~~
~~8 affiliated providers) shall take effect on January 1, 2017.~~

~~9 (b) Secs. 2 and 3 (hospital budget review), 4 (review of health care~~
~~10 provider affiliations), and this section shall take effect on passage.~~

~~Sec. 1. GREEN MOUNTAIN CARE BOARD; NOTICE TO PATIENTS OF~~
~~NEW AFFILIATION~~

~~The Green Mountain Care Board shall maintain a policy for reviewing new~~
~~physician acquisitions and transfers as part of the Board's hospital budget~~
~~review responsibilities. The policy shall require hospitals to provide written~~
~~notice about a new acquisition or transfer of health care providers to each~~
~~patient served by an acquired or transferred health care provider during the~~
~~previous three-year period, including:~~

~~(1) notifying the patient that the health care provider is now affiliated~~
~~with the hospital;~~

~~(2) providing the hospital's name and contact information;~~

~~(3) notifying the patient that the change in affiliation may affect his or~~
~~her out-of-pocket costs, depending on the patient's health insurance plan and~~
~~the services provided; and~~

~~(4) recommending that the patient contact his or her insurance company~~
~~with specific questions or to determine his or her actual financial liability.~~

~~Sec. 2. 18 V.S.A. § 9405c is added to read:~~

~~§ 9405c. NOTICE OF AFFILIATION~~

~~(a) Each hospital shall provide notice to the Office of the Attorney General at least 90 days or as soon as practicable prior to the effective date of a transaction that will result in a new affiliation between the hospital and one or more health care providers or between the hospital and a group medical practice. The notice shall include at least the following information:~~

~~(1) the name and address of the hospital acquiring the provider, providers, or group medical practice and contact information for a representative of the hospital; and~~

~~(2) the name and address of the provider, providers, or group medical practice being acquired and contact information for a representative of the provider, providers, or practice.~~

~~(b) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public Records Act and shall be kept confidential except to the extent necessary to allow the Office to perform an inquiry into potentially anticompetitive practices.~~

~~Sec. 2. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2016.~~

~~Sec. 3. 33 V.S.A. § 1905a is added to read:~~

~~§ 1905a. MEDICAID REIMBURSEMENTS TO CERTAIN OUTPATIENT PROVIDERS~~

~~(a) The Department of Vermont Health Access shall not increase a provider's Medicaid reimbursement rates for outpatient medical services provided at an off-campus outpatient department of a hospital as a result of the provider's transfer to or acquisition by the hospital.~~

~~(b) As used in this section, "off-campus" means a facility located more than 250 yards from the main hospital campus.~~

~~Sec. 4. PROVIDER REIMBURSEMENT; REPORT~~

~~The Green Mountain Care Board shall consider the advisability and feasibility of expanding to commercial health insurers the prohibition on increased reimbursement rates for health care providers newly transferred to or acquired by a hospital as described in Sec. 3 of this act. On or before December 1, 2016, the Green Mountain Care Board shall report its findings and recommendations to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance, including its~~

~~recommendations for the process and timing of implementation of the reimbursement restrictions.~~

~~Sec. 5. REDUCING PAYMENT DIFFERENTIALS; GUIDANCE AND IMPLEMENTATION; REPORT~~

~~(a) On or before July 15, 2016, the Green Mountain Care Board shall provide to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance a copy of each implementation plan for providing fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, as required to be developed by health insurers pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b), as amended by this act.~~

~~(b) No later than 30 days following the Board's review of each implementation plan pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b) but in no event later than December 1, 2016, the Board shall report to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance on its progress toward achieving fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, without increasing health insurance premiums or public funding of health care, as required by 2015 Acts and Resolves No. 54, Sec. 23(b), as amended by this act.~~

~~Sec. 6. EFFECTIVE DATES~~

~~(a) Secs. 1 and 2 (notice of new affiliation) shall take effect on July 1, 2016.~~

~~(b) Sec. 3 (33 V.S.A. § 1905a) shall take effect on July 1, 2016 and shall apply to all providers transferred to or acquired by a hospital on or after the date of passage of this act.~~

~~(c) Secs. 4 and 5 (Green Mountain Care Board reports) and this section shall take effect on passage.~~

~~Sec. 1. GREEN MOUNTAIN CARE BOARD; NOTICE TO PATIENTS OF NEW AFFILIATION~~

~~The Green Mountain Care Board shall maintain a policy for reviewing new physician acquisitions and transfers as part of the Board's hospital budget review responsibilities. The policy shall require hospitals to provide written notice about a new acquisition or transfer of health care providers to each patient served by an acquired or transferred health care provider, including:~~

~~(1) notifying the patient that the health care provider is now affiliated with the hospital;~~

(2) providing the hospital's name and contact information;

(3) notifying the patient that the change in affiliation may affect his or her out-of-pocket costs, depending on the patient's health insurance plan and the services provided; and

(4) recommending that the patient contact his or her insurance company with specific questions or to determine his or her actual financial liability.

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

§ 9405c. NOTICE OF ACQUISITION

(a) As used in this section:

(1) "Acquire" means a purchase or transfer through which a hospital will own or control the business of a medical practice.

(2) "Hospital" means a general hospital or hospital facility licensed under chapter 43 of this title.

(3) "Medical practice" means a business through which one or more physicians practice medicine.

(b) Each hospital shall provide notice to the Office of the Attorney General at least 90 days or as soon as practicable prior to the effective date of a transaction through which the hospital will acquire a medical practice. The notice shall include at least the following information:

(1) the name and address of the hospital acquiring the medical practice and contact information for a representative of the hospital; and

(2) the name and address of the medical practice being acquired and contact information for a representative of the medical practice.

(c) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public Records Act and shall be kept confidential except to the extent necessary to allow the Office to perform an inquiry into potentially anticompetitive practices.

Sec. 3. 33 V.S.A. § 1905a is added to read:

§ 1905a. MEDICAID REIMBURSEMENTS TO CERTAIN OUTPATIENT PROVIDERS

(a) To the extent permitted under federal law, the Department of Vermont Health Access shall not use provider-based billing for outpatient medical services provided at an off-campus outpatient department of a hospital as a result of the provider's transfer to or acquisition by the hospital.

(b) As used in this section, "off-campus" means a facility located more than 250 yards from the main hospital campus.

Sec. 4. PROVIDER REIMBURSEMENT; REPORT

The Green Mountain Care Board shall consider the advisability and feasibility of expanding to commercial health insurers the prohibition on any increased reimbursement rates or provider-based billing for health care providers newly transferred to or acquired by a hospital as described in Sec. 3 of this act. On or before February 1, 2017, the Green Mountain Care Board shall report its findings and recommendations to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance, including its recommendations for the process and timing of implementation of any recommended reimbursement restrictions.

Sec. 5. REDUCING PAYMENT DIFFERENTIALS; GUIDANCE AND IMPLEMENTATION; REPORT

(a) On or before July 15, 2016, the Green Mountain Care Board shall provide to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance a copy of each implementation plan for providing fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, as required to be developed by health insurers pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b).

(b) No later than 30 days following the Board's review of each implementation plan pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b) but in no event later than December 1, 2016, the Board shall report to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance on its progress toward achieving fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, without increasing health insurance premiums or public funding of health care, as required by 2015 Acts and Resolves No. 54, Sec. 23(b).

Sec. 6. EFFECTIVE DATES

(a) Secs. 1 (notice to patients) and 2 (notice to Attorney General) shall take effect on July 1, 2016.

(b) Sec. 3 (33 V.S.A. § 1905a) shall take effect on July 1, 2016 and shall apply to all providers transferred to or acquired by a hospital on or after that date.

(c) Secs. 4 and 5 (Green Mountain Care Board reports) and this section shall take effect on passage.