CONFIDENTIAL

LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: H. 812 **Name of Bill:** An act relating to consumer protections for ACOs

Agency/ Dept: AoA **Author of Bill Review:** Jordan Keene/Robin Lunge

Date of Bill Review: 5/13/16 **Related Bills and Key Players** S.196 provisions incorporated; all health care stakeholders

Status of Bill: (check one): ___Upon Introduction _____ As passed by 1st body ___X__As passed by both

Recommended Position:

_X___Support _____Oppose __ __Remain Neutral _____Support with modifications identified in #8 below

Analysis of Bill

***1*. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*
Establishes principles and guidelines for consumer protections regarding ACOs and the All Payer Model. Specifically:

1. The APM agreement with Medicare:
   Must be consistent with health care reform principles, preserves consumer protections and will not reduce Medicare covered services or increase Medicare cost sharing, has provider choice regardless of ACO involvement, includes outcome measures in population health, and has Medicare payments directly from federal government to ACO or providers—NOT through SoV.
2. All-Payer Model
   Must be consistent with health care reform principles, has Medicare payments directly from federal government to ACO or providers—NOT through SoV, maximizes alignment between payers, adheres to mental health parity, includes integration of community-based providers, make investment in primary care, integrated approach to data collection, evaluates access to care, quality of care, patient outcomes and social determinants of health, requires shared decision-making, supports coordination of care, works with HCA to ensure robust grievance and appeals process.
3. Definition of ACO
4. GMCB must adopt by rule standards for ACOs while promoting seamless care, administration and service delivery.
5. Oversight of ACO—in order to receive Medicaid payments or commercial insurance payments, all ACOs must be certified by GMCB and board must ensure following criteria met:
   - ACO governing body: governance, leadership, and management is transparent and represents ACO participants and providers. *Medicaid SSP requires 2 consumers, one of whom is Medicaid beneficiary.*
   - Care coordination, including Blueprint
   - Mechanisms for receiving and distributing payments to providers
   - No discrimination against providers
   - Evidenced based health care, coordination of care, electronic health records, and other technologies

- Meaningful participation in health information exchanges
- Performance standards
- No restrictions on information in provider-patient relationship
- Shared decision-making
- Explanation of how ACOs work—outreach and hotline for complaints and grievances
- Coordinated consumer assistance with HCA, uphold biannual meetings.
- Collaborates with community providers
- Public session of ACO meetings
- No decrease in access to health care
- Financial guarantee to cover losses

GMCB will oversee ACO budgets for ACOs with more than 10,000 beneficiaries and HCA will have the right to intervene. Section also includes antitrust provision. GMCB will review and consider:

- Information re: utilization of health care
- Goals of health resource allocation plan
- Expenditure analysis of previous year
- Soundness of the ACO and its principals
- Reports from professional review orgs
- Efforts to prevent duplication of services,
- Incentives for health care investments to strengthen primary care
- Incentives for system health care investments in social determinants of health
- Incentives for reducing impacts of adverse childhood experiences by partnering with families.
- Public comment on all aspects of ACO cost and use on ACO proposed budget
- Information from meetings with ACO
- Information re: ACO admin costs
- Effect of Medicaid reimbursement rates
- Extent to which costs are transparent

GMCB will do a modified, simpler budget review for smaller ACOs.

The GMCB shall provide the HCA with all copies of materials related to ACO budget and may:

- Ask questions of employees of GMCB relating to ACO budget reviews
- Submit written questions to the Board that will be asked of the ACO
- Submit written comments for the Board's consideration
- Ask questions and provide testimony in any hearing held in conjunction with Board's ACO budget review
- The HCA shall not disclose confidential information
- All information that is to be filed by an ACO pursuant shall be made available to public
- The GMCB is to ensure all federal standards are upheld by Vermont ACOs.

6. GMCB rules do not need to be in effect until 2018—GMCB will provide update on rulemaking process 1/15/17.
7. DFR and DVHA shall have rules in place to protect against wrongful denial of services
8. GMCB shall establish a consumer, patient, business and health care advisory board to provide recommendation. The Board may examine effectiveness of quality measures and requirements for existing health care professionals
10. Primary Care Professional Advisory Group

Please return this bill review as a Microsoft Word document to Jahala.Dudley@vermont.gov & Jessica.Mishaan@vermont.gov

GMCB shall create a primary care advisory board to reduce administrative burden on these providers. The board may also address other issues, such as:

- Identify necessary reporting requirements to minimize data entry
- Reduce requirements for PCPs to provide authorization for patients to receive radiology, medication and other specialty services
- Develop a uniform, state-wide hospital discharge summary.

11. AHS Contracts Report (moved from S.196)

On or before 1/1/2017, AHS, in consultation with VT Care Partners, the GMCB shall submit a report to SHW, HHC and HHS, addressing the following:

- Amount and type of performance measures used in fiscal years 2016-2017
- How the Agency's funding levels across agencies affect the quality of care
- How the Agency's funding levels across agencies affect compensation levels for staff relative to private and public sector pay for the same service.

The report produced shall contain a plan developed with VHCIP, Vermont Care Network and Mental Health Services to implement value based payment methodology for designated agencies. The plan shall describe interaction of value based payment methodology for Medicaid payments that will lead to long-term financial sustainability.

12. Medicaid Pathway; Report (moved from S.196)

On or before 1/15/2017 and annually for five years, Secretary of Human Services, in consultation with Director of Health Care Reform, GMCB and affected providers shall create a process for payment and delivery system reform for Medicaid providers and services. This process shall address all Medicaid payments and integrate providers to the extent practicable into all-payer model and other existing delivery system reform initiative. The report shall include:

- All Medicaid payments to affected providers
- Changes to reimbursement methodology and services impacted
- Efforts to integrate affected providers into the all-payer model.
- Changes to quality measure collection and identifying alignment efforts and analyses.
- The interrelationship of result-based accountability initiatives with quality measures.

13. Medicaid Advisory Rate Case for ACO Services

On or before 12/31/2016, the GMCB shall review an all-inclusive population based payment arrangements between DVHA and ACOs for FY2017. The review shall include number of attributed lives, eligibility groups, covered services, elements of the per-member, per-month payment, and any other non-claims payments.

14. Multi-year Budgets, ACOs; Report

The GMCB shall consider appropriate role, if any, of using multi-year budgets for ACOs to reduce administrative burden, improve care quality and ensure sustainable access to care. On or before 1/15/2017, the GMCB and DVHA shall provide findings and recommendations to HHC, HHS, SHW and SFC.

15. Multi-Year Budgets; Medicaid Report

The JFO and Dept. of Finance and Management, collaborating with AHS and DVHA, shall consider the benefits, if any, of using multi-year budgets for Medicaid and other State-funded health care programs to reduce administrative burden, improve quality and access to care. On or before 3/1/2017, these bodies shall submit finding and recommendations to House Committee Appropriations, HHC, HHS and Senate Committees on Appropriations, SHW, and SFC.

16. All Payer Model; Alignment; Report

On or before January 15, 2017, the GMCB shall present information on the status of its efforts to achieve alignment between Medicare, Medicaid and commercial payers in the all payer model. This information

is to be presented to HHC, SHW and SFC.

17. Findings related to Nutritional Procurement Standards
18. Nutritional Procurement Standards (supported by VDH)
    The Commissioner of Health shall establish and post on the Dept's website nutrition procurement standards that:
    - Consider relevant guidance documents, including those published by US General Services Admin, the American Heart Association, and the National Alliance for Nutrition and Activity. The Dept. shall provide rationale for any divergence from these guidance documents
    - Consider both positive and negative contributions of nutrients, ingredients, and food groups to diet. This will include calories, portion size, saturated fat, trans fat, sodium, sugar, and the presence of fruits, vegetables, whole grains, and other nutrients of concern in Americans' diets and;
    - Contain exceptions for circumstances in which State-procured foods or beverages are intended for individuals with specific dietary needs
    - The Commissioner shall review and, if necessary, amend nutrition procurement standard every five years to reflect advances.
    - All foods sold or provided by the State shall meet the minimum nutritional procurement standards established by the Commissioner of Health
    - All bids and contracts between the State and food & beverage vendors shall comply with the nutrition procurement standards. Period reviews or audits may occur on these vendors to ensure compliance, in conjunction with Commissioner of Buildings and General Services
    - The Governor's Health in All Policies Task Force may disseminate information to State employees on Commissioner's nutrition procurement standards.
    - All State-owned or operated vending machines, food or beverage vendors shall display nutritional labels
    - The Commissioner of Buildings and General Services shall incorporate the nutrition procurement standards established by the Commissioner of Health
19. Existing Procurement Contracts
    To the extent possible, the State's existing contracts with food and beverage vendors shall be modified to comply with nutrition procurement standards.
20. Effective Dates
    - Sec. 2 (All Payer Model), 3 & 4 (ACOs) shall take effect 1/1/2018
    - Secs. 17 - 19 (nutrition procurement standards) shall take effect 7/1/2016

2. Is there a need for this bill? *Please explain why or why not.*
We'd like this bill to ensure continuity into the next Administration. In addition, the nutritional standards are a VDH priority.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?
AoA will likely have to participate in stakeholder process. AoA will work closely with the GMCB to implement an All Payer Model.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?
DVHA: Worried GMCB will impinge on AHS's authority as federally required single state agency. The final bill explicitly describes a collaborative approach to improving care, with AHS and DVHA.

DFR: May not have capacity to do rules on denial of services

GMCB: Asked for resources to comply and got them in the final budget. APM $ is contingent on signing a deal.

VDH: will need to implement nutrition standards.

AHS: currently working with SIM on Medicaid pathway and the contract issues, so this simply codifies their current approach.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** (f*or example, public, municipalities, organizations, business, regulated entities, etc)*
ACOs: supported

Community providers, incl. home health, DAs, AAAs, etc.: supported

Health Care Advocate/Public: supported

6. **Other Stakeholders:**

   6.1 Who else is likely to support the proposal and why?

   6.2 Who else is likely to oppose the proposal and why? No opposition to final bill

7. **Rationale for recommendation:** *Justify recommendation stated above.*
This bill balances flexibility with consumer protections.

8. **Specific modifications that would be needed to recommend support of this bill***: Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*
No modifications.

9. **Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?**

Not governmental, but requires ACO to have consumer representation as part of governing body. The GMCB will create a primary care advisory group to provide recommendations to the Board, to help reduce administrative burden facing primary care professionals

Secretary/Commissioner has reviewed this document: _____ Date: _____

Please return this bill review as a Microsoft Word document to Jahala.Dudley@vermont.gov & Jessica.Mishaan@vermont.gov