

1 Introduced by Committee on Health Care

2 Date:

3 Subject: Health; hospitals; health insurers; Green Mountain Care Board;
4 hospital observer

5 Statement of purpose of bill as introduced: This bill proposes to authorize the
6 Green Mountain Care Board to reduce a health insurer’s reimbursement rates
7 to one or more hospitals if the health insurer is at imminent risk of insolvency.
8 The bill would permit the Board to reduce a hospital’s budget for the
9 forthcoming fiscal year to account for the hospital’s budget overage in the
10 previous fiscal year. The bill would also allow the Board to appoint an
11 independent observer to oversee a hospital and its operations if the Board finds
12 the hospital has made a material misrepresentation or is out of compliance with
13 its budget and the Board believes that appointing an independent observer is in
14 the public interest.

15 An act relating to Green Mountain Care Board authority to adjust a
16 hospital’s reimbursement rates and to appoint a hospital observer

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

18 Sec. 1. 18 V.S.A. § 9384 is added to read:

19 § 9384. REDUCTION OR REALLOCATION OF REIMBURSEMENT

20 RATES; RISKS TO HEALTH INSURER SOLVENCY

1 (a) As used in this section:

2 (1) “Hospital” has the same meaning as in section 9451 of this title.

3 (2) “Hospital network” means a system comprising two or more
4 affiliated hospitals, and may include other health care professionals and
5 facilities, that derives 50 percent or more of its operating revenue, at the
6 consolidated network level, from Vermont hospitals and in which the affiliated
7 hospitals deliver health care services in a coordinated manner using an
8 integrated financial and governance structure.

9 (b) If the Green Mountain Care Board determines, after consultation with
10 the Commissioner of Financial Regulation, that a domestic health insurer faces
11 an acute and immediate threat to its solvency because its risk-based capital
12 level has triggered a regulatory action level event pursuant to 8 V.S.A. § 8304,
13 the Board may order a reduction of the insurer’s reimbursement rates to one or
14 more Vermont hospitals as set forth in subsection (c) of this section until such
15 time as the amount of the insurer’s risk-based capital exceeds the company
16 action level risk-based capital threshold defined in 8 V.S.A. § 8301.

17 (c)(1) The Board shall only order a reduction in the reimbursement rates to
18 a hospital that meets one or both of the following criteria:

19 (A) the hospital has more than 135 days’ cash on hand and had a
20 positive operating margin in the previous fiscal year; or

1 circumstances in accordance with the criteria and processes established under
2 section 9405 of this title.

3 (2) The Board may, on its own initiative, adjust the commercial health
4 insurance reimbursement rates payable to a hospital at any time during the
5 hospital’s fiscal year in order to ensure that the hospital operates within the
6 budget established under this section.

7 (g)(1) The Board may request, and a hospital shall provide, information
8 determined by the Board to be necessary to determine whether the hospital is
9 operating within a budget established under this section. For purposes of this
10 subsection, subsection (h) of this section, and subdivision 9454(a)(7) of this
11 title, the Board’s authority shall extend to an affiliated corporation or other
12 person in the control of or controlled by the hospital to the extent that such
13 authority is necessary to carry out the purposes of this subsection, subsection
14 (h) of this section, or subdivision 9454(a)(7) of this title. As used in this
15 subsection, a rebuttable presumption of “control” is created if the entity,
16 hospital, or other person, directly or indirectly, owns, controls, holds with the
17 power to vote, or holds proxies representing 20 percent or more of the voting
18 securities or membership interest or other governing interest of the hospital or
19 other controlled entity.

20 (2)(A) The Board may, upon finding that a hospital has made a material
21 misrepresentation in information or documents provided to the Board or that a

1 hospital is materially noncompliant with the budget established by the Board
2 pursuant to this section, appoint an independent observer with respect to any
3 matter related to the Board’s review or enforcement under this section if the
4 Board believes that doing so is in the public interest. At the direction of the
5 Board, the independent observer may monitor the hospital’s operations, obtain
6 information from the hospital, and report findings and recommendations to the
7 Board.

8 (B) An independent observer appointed pursuant to this subdivision
9 (2) shall have the right to receive copies of all materials related to the Board’s
10 review under this section and the hospital shall provide any information
11 requested by the independent observer, including any information regarding
12 the hospital’s participation in a hospital network. The independent observer
13 shall share information provided by the hospital with the Board and with the
14 Office of the Health Care Advocate in accordance with subdivision (d)(3) of
15 this section but shall not otherwise disclose any confidential or proprietary
16 information that the independent observer obtained from the hospital.

17 (C) The Board may order a hospital to pay for all or a portion of the
18 costs of an independent-observer appointed for the hospital pursuant to this
19 subdivision (2).

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- 1 Sec. 3. INDEPENDENT HOSPITAL OBSERVER AUTHORITY;
- 2 PROSPECTIVE REPEAL
- 3 18 V.S.A. § 9456(g)(2) (authority to appoint independent hospital observer)
- 4 is repealed on January 1, 2030.
- 5 Sec. 4. EFFECTIVE DATE
- 6 This act shall take effect on passage.