

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 ~~an authorized control~~ **a regulatory action** level event
13 pursuant to 8 V.S.A. § 8304, the Board may order a reduction of the insurer’s
14 reimbursement rates to one or more Vermont hospitals as set forth in
15 subsection (c) of this section until such time as the amount of the insurer’s
16 risk-based capital exceeds the company action level risk-based capital
17 threshold defined in 8 V.S.A. § 8301.

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

20 (A) the hospital has more than ~~125~~ **135** days’ cash on hand;

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(f)(1) The Board may, upon application, adjust a budget established under this section upon a showing of need based upon exceptional or unforeseen circumstances in accordance with the criteria and processes established under section 9405 of this title.

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

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

1 securities or membership interest or other governing interest of the hospital or
2 other controlled entity.

3 (2)(A) The Board may, upon finding that a hospital has made a material
4 misrepresentation in information or documents provided to the Board **or that a**
5 **hospital is materially noncompliant with the budget established by the**
6 **Board pursuant to this section,** appoint an independent observer with respect
7 to any matter related to the Board’s review or enforcement under this section if
8 the Board believes that doing so is in the public interest. At the direction of the
9 Board, the independent observer may monitor the hospital’s operations, obtain
10 information from the hospital, and report findings and recommendations to the
11 Board.

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

