

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill  
3 No. 482 entitled “An act relating to Green Mountain Care Board authority to  
4 adjust a hospital’s reimbursement rates and to appoint a hospital observer”  
5 respectfully reports that it has considered the same and recommends that the  
6 Senate propose to the House that the bill be amended by striking out all after  
7 the enacting clause and inserting in lieu thereof the following:

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

9 § 9384. REDUCTION OR REALLOCATION OF REIMBURSEMENT

10 RATES; RISKS TO HEALTH INSURER SOLVENCY

11 (a) As used in this section:

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

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

19 (b) If the Green Mountain Care Board determines, after consultation with  
20 the Commissioner of Financial Regulation, that a domestic health insurer faces  
21 an acute and immediate threat to its solvency because its risk-based capital

1 level has triggered a regulatory action level event pursuant to 8 V.S.A. § 8304,  
2 the Board may order a reduction of the insurer's reimbursement rates to one or  
3 more Vermont hospitals as set forth in subsection (c) of this section until such  
4 time as the amount of the insurer's risk-based capital exceeds the company  
5 action level risk-based capital threshold defined in 8 V.S.A. § 8301.

6 **Notwithstanding any provision of 3 V.S.A. chapter 25 to the contrary, the**  
7 **Board's activities under this section shall not be construed to be a**  
8 **contested case. Any person aggrieved by a final Board action, order, or**  
9 **determination under this section may appeal as set forth in section 9381 of**  
10 **this title.**

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

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

15 (B) the hospital is a member of a hospital network that, at the  
16 consolidated network level, has more than 135 days' cash on hand or had a  
17 positive operating margin in the previous fiscal year, or both.

18 (2) The Board shall order a reduction in reimbursement rates to a  
19 hospital pursuant to this subsection only to the extent necessary to remediate  
20 the threat to the domestic health insurer's solvency. In determining whether  
21 **and to what extent to reduce a hospital's reimbursement rates pursuant to**

1 **this section, the Board shall consider the competing financial obligations**  
2 **of the hospital and of the domestic health insurer.**

3 **(3) The Board shall provide a hospital with the opportunity to**  
4 **request relief from a rate reduction ordered pursuant to this section.**

5 (4) In no event shall a reduction ordered by the Board pursuant to this  
6 section result in a decrease to a hospital's or hospital network's projected days'  
7 cash on hand to below 125 days.

8 Sec. 2. 18 V.S.A. § 9456 is amended to read:

9 § 9456. BUDGET REVIEW

10 \* \* \*

11 (c) Individual hospital budgets established under this section shall:

12 \* \* \*

13 (4) **reflect budget performances for prior years ~~reconcile~~ and, if not**  
14 **already addressed pursuant to subsection (h) of this section, account for**  
15 any significant deviation in revenue during the ~~previous~~ **most recently**  
16 **completed** fiscal year in excess of the budget established for the hospital  
17 pursuant to this section, ~~using a methodology established by the Board;~~

18 \* \* \*

19 (f)(1) The Board may, upon application, adjust a budget established under  
20 this section upon a showing of need based upon exceptional or unforeseen

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. **The independent**  
5 **observer shall be a person with experience and expertise relevant to the**  
6 **specific circumstances.** At the direction of the Board, the independent  
7 observer may monitor the hospital’s operations, obtain information from the  
8 hospital, and report findings and recommendations to the Board.

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

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

21 \* \* \*

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.

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14       (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE