

Response of Northwestern Medical Center to April 13, 2020 Submissions of Office of Health Care Advocate and Disability Rights Vermont Regarding Certificate of Need Application for Emergency Department Modernization Project, Docket No. GMCB-003-19cn

On behalf of Northwestern Medical Center (NMC), I am writing to provide NMC's response to the submissions of the Office of Health Care Advocate (HCA), an Interested Party to this application, Disabilities Rights Vermont (DRVT), which has Amicus Curiae status to this proceeding, and the additional public comment filed last week. The Green Mountain Care Board (GMCB) should have the following points at the forefront of its consideration:

First, this Project as currently designed shall provide substantial improvement and benefits in terms of access to care for all patients seeking emergent care at NMC, be it involving medical emergencies such as: opioid overdose, heart attack and stroke, pediatric and geriatric emergencies, trauma, domestic and sexual assault, contagious diseases, as well as mental health emergencies. The planned renovations create twenty private emergency department (ED) rooms, which alone will allow a better therapeutic environment, more comforting experience and a higher quality of care to be delivered to everyone regardless of the types of emergent needs of the patient.

Secondly, the proposed Project's design supports equal access to appropriate mental health care and meets the known, established and published standards of quality, access and affordability for all health care components and services appropriately provided in the emergency department of a Vermont community hospital setting. The Project plans went through multiple design cycles to properly balance overall scope of service and functionality with cost and impact. The Project application as presented meets each of the required Certificate of Need (CON) criteria as set forth in 18 VSA Section 9437, including Criteria 9.

Third, once the Project is complete, NMC will operate its modernized emergency department, as it does today, in full compliance with requirements and patient rights provisions as set forth in the federal hospital emergency room conditions of participation, state licensing requirements and 18 VSA Section 7508(e) for patients who are in the custody of the Commissioner of Mental Health.

Please note that the HCA's submission misrepresents NMC's application and its responses to GMCB questions on a material point. NMC has not proposed to build an Emergency Department Mental Health Unit. The Project does not include a dedicated unit that will exclusively provide mental health related services—all patient treatment rooms provided in the modernized ED may be used for any emergent patient if there is a surge in volume. NMC has proposed that the modernized ED will include two ligature-free patient treatment rooms and two ligature-resistant convertible treatment rooms to be prioritized as needed for patients who may present a risk for self-harm or harm to others. These rooms have natural light and are situated to avoid most ED traffic and to be more private and calming for anyone being seen in the ED, but particularly beneficial for someone who may be awaiting treatment at a Designated Hospital. But, these four rooms are not designated exclusively for the care of individuals seeking mental health related services. Depending on the ED census, patients needing mental health services may be seen elsewhere in the ED, and patients receiving treatment for conditions other than mental health care may be seen in the ligature-resistant or ligature-free rooms as necessary. See CON Application, p.7, discussing use of safe holding rooms (ligature-free) during times of a surge in patient volumes; see also NMC December 23, 2019 response to GMCB Question 007, Question D.1.

As clarified in NMC's February 27, 2020 response to GMCB Question 008, Questions No. 2 and 4, any use of seclusion by locking rooms or hallways will be ordered only after steps set forth in NMC's Restraint Use Policy (updated 12/2018) have been followed. This situation is distinguished from the potential of an ED lock down involving an active shooter in the hospital which would generally involve the entire ED being locked for the safety of everyone within it. NMC had hoped to host a meeting in its current ED to talk further with advocates from DRVT, the HCA and others who have filed public comment regarding the Project, but that had necessarily been postponed to a time after the COVID-19 emergency. In any event, NMC has committed, as the Project is being built, to working with DRVT and others to reach a community of understanding with all who provide support to patients awaiting inpatient mental health treatment on NMC's ED policies and its philosophy of maintaining an unrestricted environment or as least restricted, as possible. Further, as discussed below, NMC is willing, to the extent of its capacity and capabilities during the COVID-19 emergency to confer with these same individuals and entities to explore design modification.

NMC is sensitive to the concerns raised about a lack of common space, but, given the limited footprint available, it has prioritized increasing the total treatment capacity of the modernized ED for the equitable benefit of all patients. In designing this Project, as detailed in NMC's November 5, 2019 response to GMCB Question 006, Question No. 1, NMC reached out to and involved the Director of Behavioral Health and two key crisis clinicians from Northwestern Counseling and Support Services (NCSS) (Franklin County's behavioral health experts). They in turn shared the floor plan with the NCSS Behavioral Health Division Standing Committee who had a member participate in an ED design meeting along with the regular involvement of the NCSS crisis clinicians in the ED design meetings.

In researching the applicable standards for its ED design a year ago, NMC was not aware of any standard requiring common space. To this day, NMC is still not aware of any such standard. See CON Application, Exhibit 5, Compliance Checklist, Facilities Guideline Institute (FGI) Emergency Services Guidelines for Design and Construction of Hospitals and Outpatient Services, 2014 Edition. For NMC to now add a common space near the ligature-free rooms in the proposed ED modernization Project, it would need to sacrifice the treatment room capacity of one of the planned ligature-resistant flexible treatment rooms. This change would be a material reduction in needed emergency room capacity--nineteen treatment rooms, instead of twenty, with only 3 ligature-resistant or ligature-free rooms.

That said, NMC remains willing to work with DRVT, HCA, and others to explore a financially feasible modification to the current design that will neither delay the Project nor place further financial strains on NMC, given the current upheaval and uncertainty in every Vermont hospital's budgeting and financial picture due to their respective responses to the COVID-19 pandemic. Once NMC's capacity and capabilities allow during or following the current emergency, it will re-schedule a meeting among the individuals and entities interested in the design to explore feasible and cost effective changes related to the aforementioned input. Given the enormous improvements and benefits of this Project in terms of access and quality, however, the timing of the Project must not be further delayed.

In closing, this Project is subject to the review jurisdiction of the Green Mountain Care Board under 18 VSA Section 9434 as a result of the fact that it involves a capital expenditure in excess of three million dollars. In that context, the Board should review the criteria set forth in 18 VSA Section 9437 and determine that this Project should be granted a Certificate of Need.

Respectfully submitted this 20th day of April, 2020,



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