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June 17, 2019

Kevin Mullin, Chair
Green Mountain Care Board
144 State Street
Montpelier, VT 05602

Dear Chair and Members of the Green Mountain Care Board:

Thank you for the opportunity to comment on the Green Mountain Care Board (the Board)'s proposed 2020 Accountable Care Organization (ACO) Budget Guidance. We appreciate the work that the Board and its staff have put into this new and complex regulatory field. Because Vermont's all-payer model is unique and untested, it is especially important that regulation related to its implementation is robust, transparent, and efficient. The Office of the Health Care Advocate (HCA) previously provided feedback to Board staff on an earlier draft of the guidance. We appreciate that Board staff incorporated some of our suggestions in this draft. The comments and questions below are in follow-up to our previous feedback and to our May 23 meeting with Board staff, and include comments about transparency and efficiency, questions for Board staff, and suggested edits to the guidance that will help ensure that the Board, the public, and the HCA have robust information about the ACO's investments and outcomes.

Transparent and Efficient ACO Regulatory Processes

The HCA's Role Representing Vermonters

It is our understanding that the Board reviews OneCare Vermont's budget on an annual basis pursuant to 18 V.S.A. § 9382 and Green Mountain Care Board Rule 5.000: Oversight of Accountable Care Organizations. The HCA represents Vermonters in matters before the Board including the ACO budget review. The HCA's role in the budget process is defined in 18 V.S.A. § 9382.¹

We ask that any questions submitted by the HCA be sent to the ACO in a timely manner so that the ACO has as much time as possible to prepare its responses and to allow the HCA to follow up if necessary. In the Board's hospital budget review proceedings, submitting written questions earlier in

¹ 18 V.S.A. § 9382 (3)(A) The Office of the Health Care Advocate shall have the right to receive copies of all materials related to any ACO budget review and may: (i) ask questions of employees of the Green Mountain Care Board related to the Board's ACO budget review; (ii) submit written questions to the Board that the Board will ask of the ACO in advance of any hearing held in conjunction with the Board's ACO review; (iii) submit written comments for the Board's consideration; and (iv) ask questions and provide testimony in any hearing held in conjunction with the Board's ACO budget review.

the process has worked well for all parties, allowing the hospitals more time to respond and allowing us time to review the responses and to follow up in writing when necessary. This avoids a need for the HCA to use hearing time to ask questions that could have been answered in advance.

The HCA has experienced ongoing issues with receiving materials pertinent to the Board's review processes. We would like to stress that per Rule 5.105 the HCA must be copied on all materials related to the Board's ACO budget review and certification activities² regardless of whether the Board follows the timelines and procedures outlined in Rule 5.000 for collecting these materials, and regardless of when the ACO provides materials to the Board. This includes any reports, policies, documents, and data submitted by the ACO to the Board to confirm, clarify, update, or otherwise amend the materials provided during the formal annual budget review and certification processes. The Board's draft 2020 Budget Guidance places the responsibility of copying the HCA with the ACO.³ However, we would like to note that we rely on the Board to ensure that this requirement is fulfilled as we have no way of knowing about materials that are not sent to us or presented publicly. We cannot fulfill our role representing Vermonters in these processes without receiving all the relevant materials.

Public Transparency

We appreciate the Board's commitment to public transparency and want to ensure that interested members of the public can engage in the Board's ACO regulatory activities to the same extent that they can engage in the Board's other activities. As the Board continues to hone its procedures for its ACO regulatory practices we ask that public transparency be prioritized.

To this end, we ask the Board to consider its full package of ACO regulatory materials simultaneously, including the ACO budget guidance, certification/re-certification form(s), and any other materials that the Board plans to provide to the ACO to facilitate fulfillment of the requirements of Act 113 and Rule 5.000 for 2020. It is currently difficult to follow the Board's processes based on Rule 5.000 and the materials available on the Board's website. Based on discussions with Board staff, we understand that Rule 5.000 may be revised in the future. It is also our understanding that Board staff believe the requirements of Rule 5.000 and Act 113 are fulfilled through the budget process, certification process, quarterly reporting, and other reporting from the ACO outside the formal public processes.

Unless and until changes to the rule are approved and implemented we ask the Board to make its processes clear and transparent to the public including clear information regarding how the Board expects each requirement of Act 113 and Rule 5.000 to be fulfilled. If components of the budget review and/or certification process are fulfilled outside the formal public processes, we ask the Board to make this clear, including ensuring that the HCA is copied on all relevant submissions and ensuring that all relevant materials are easily available and identifiable to members of the public.

² Rule 5.105: Each document submitted to or filed with the Board under this Rule must be copied to the Office of the Health Care Advocate and to those Payers to whom the submission or filing relates.

³ In accordance with 18 V.S.A. § 9382(b)(3)(A) and GMCB Rule 5.000, §§ 5.105, 5.404(b), the Office of the Health Care Advocate (HCA), which represents the interests of Vermont health care consumers, must receive ACO budget filings and other materials and will participate in the budget review process, including hearings. It is the responsibility of the ACO to ensure the HCA receives all documents pertaining to the budget.

HCA Questions to Board Staff

The HCA submits the following questions to Board staff pursuant to 18 V.S.A. § 9382 (b)(3)(A)(i):

1. 18 V.S.A. § 9382 (b)(1)(M) requires the Board to review and consider information on the ACO's administrative costs, as defined by the Board. Please provide the Board's definition of administrative costs and clarify whether the terms "administrative costs," "administrative budget," and "operational expenses" are used synonymously. If not, please detail any differences.
2. Rule 5.403(a)(1) requires the ACO to submit information on the ACO's structure, composition, ownership, governance, and management. Please provide where each of these individual pieces of information is requested in the budget guidance and/or certification requirements.⁴
3. Please provide the HCA with a copy of the ACO's alignment report, as referenced at the May 23 meeting, and/or let us know where this report is publicly available.
4. At our May 23 meeting, Board staff indicated that the Board has clear information about the nature and scope of OneCare's financial and other involvement in each of the initiatives described on pages 45 through 50 (Part 5, Question 1) of OneCare's 2019 budget narrative. Please provide this information to the HCA.
5. At our May 23 meeting, Board staff indicated that due to population changes, year over year quality data is either not relevant to the Board's review or is relevant but not suitable for public transparency. Please provide further clarity and an explanation of the Board's position on this topic.

HCA Suggested Edits to the Board's Draft 2020 ACO Budget Guidance

We ask the Board to make the following changes (suggested additions **bolded and underlined** below) to its draft 2020 ACO Budget Guidance:

Section 5, Question 3: How have OneCare's population health investments supported transformation in care at the local level? This includes the Complex Care Coordination Program, RiseVT, the Regional Clinical Representatives, and other initiatives directly funded by the ACO. Describe additional support, beyond financial, that OneCare provides these programs. **Please note in your description of each initiative which population health program investment budget item(s) it pertains to under Appendix 5.4.**

Section 5, Question 9: By payer and line of business, provide an analysis of your most recent annual ACO quality reports for measures. In addition, provide results and analysis for the measures included in each payer contract, including the quality score, benchmark, and percentile for each

⁴ GMCB Rule 5.403(a)(1) "On or before June 1 of each year, an ACO must file the information set forth in this section with the Board in a manner specified in the annual reporting and budget review manual. The Board may establish later deadlines for submitting certain information in the annual reporting and budget review manual. The ACO must submit: 1. information on the ACO's structure, composition, ownership, governance, and Management".

payment and reporting measure for 2018 **and for any previous years for which information on the measure was collected**, and any results of patient or provider experience surveys. Describe how these results have informed the ACO's programs and model of care, including the ACO's annual quality improvement workplan.

Thank you for considering our input. We look forward to continuing to work with the Board and its staff to ensure that the HCA and members of the public are able to meaningfully participate in the Board's ACO regulatory activities.

Sincerely,

s\ Julia Shaw
Health Care Policy Analyst

s\ Kaili Kuiper
Staff Attorney

s\ Eric Schultheis
Staff Attorney