VERMONT LEGAL AID, INC.

OFFICE OF THE HEALTH CARE ADVOCATE

264 NORTH WINOOSKI AVE.
BURLINGTON, VERMONT 05401
(800) 917-7787 (TOLL FREE HOTLINE)
(802) 863-7152 (FAX)

OFFICES:
BURLINGTON
RUTLAND
ST. JOHNSBURY

OFFICES:
MONTPELIER
SPRINGFIELD

August 31, 2020

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

Re: HCA Comments FY2021 Hospital Budget Review

To Chair Mullin and Members of the Green Mountain Care Board:

The Office of the Health Care Advocate (HCA) would like to begin by communicating our deep respect for and gratitude toward Vermont's health care providers. Their work is invaluable to Vermonters, especially in the context of this global pandemic. We would also like to communicate our appreciation of the Green Mountain Care Board (Board)'s efforts to understand the financial status of Vermont's hospitals during this complicated time. Particularly in the context of a pandemic, it continues to be imperative for the Board to balance hospital sustainability and Vermonters' ability to afford and access health care services. Below, we provide data outlining Vermonters' financial struggles leading into hospital budget year 2021 and comment on a few pressing themes from this year's hospital budget review process.

Vermonters Are In An Economic Crisis

Commercially insured Vermonters struggled to access care due to cost before COVID-19 and the related economic crisis. Now, Vermonters are losing income in unprecedented numbers. From March 13, 2020 through July 21, 2020, 51% of employed Vermont adults lost income. Within this statistic there are large disparities by educational attainment and race. 55% of Vermonters without a college degree lost income compared to 42% of Vermonters with at least a college degree. The disparity in income loss is even more pronounced for Vermonters of color: 57% of Black

Vermonters, 57% of Asian Vermonters, 64% of Latinx Vermonters, and 54% of multi-racial Vermonters lost income compared to 45% of white Vermonters.[1]

The economic outlook for Vermonters over the next year is particularly challenging. Vermont businesses are contracting. For instance, Vermont's Accommodation & Food Services industry has shed 49% of its workforce since July of last year. Across all nonfarm private sectors, workforce numbers are down 14% in the last 12 months.[2] Unsurprisingly, workforce reductions correspond to job losses: 8.3% of Vermonters in the labor force are unemployed compared to 2.4% at this time in 2019.[3] We have not experienced this level of unemployment since the 1970s.[4]

As incomes have dropped and unemployment has risen, the costs of basic necessities have increased. The food at home price index rose 4.6% over the last 12 months as did all six major grocery store food group indexes. Further, the index for meats, poultry, fish and eggs rose 8.4% over the last 12 months.[5]

Whether measured by unemployment, business contraction, lost income, or the cost of basic necessities, Vermonters are facing unprecedented financial hardship with no clear end in sight.

Vermont Must Address Racial Disparities in Health Care

Black and African American Vermonters have tested positive for COVID-19 at greater than ten times the rate of white Vermonters.[6] This statistic alone shows the profound need for Vermont to face its history and ongoing perpetuation of racial inequality. We appreciate the hospitals' thoughtful responses to our questions about addressing racial disparities. We urge the hospitals and the Board

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[1] US Census Bureau, Household Pulse Survey, Week 12, Employment Table 1, https://www.census.gov/data/tables/2020/demo/hhp/hhp12.html.
[2] VT Dept. Labor, Current Employment Statistics – July 2020, http://www.vtlmi.info/ces.pdf. The total VT private nonfarm workforce has decreased 13.8% since July 2019.
[3] VT Dept. Labor, July 2020 Unemployment and Jobs Press Release, http://www.vtlmi.info/press.pdf.
[4] VT Dept. Labor, Labor Force and Unemployment (last updated August 21, 2020), http://www.vtlmi.info/public/vtlaus.xlsx.
[5] US Bureau of Labor Statistics, July 2020 Consumer Price Index Summary, https://www.bls.gov/news.release/cpi.nr0.htm. The increase in the meat, poultry, fish and eggs over the last 12 months was, in part, driven by 14.2% increase in the beef index over that period.
[6] 217.8 per 10,000 Black or African American Vermonters compared to 20.2 per 10,000 white Vermonters. Vermont Department of Health, Weekly Summary of Vermont Covid-19 Data, Reflecting cases identified between March 5-August 12, 2020 (published August 14, 2020), https://www.healthvermont.gov/sites/default/files/documents/pdf/COVID19-Weekly-Data-Summary-8-14-2020.pdf.

to make addressing racial disparities a priority going forward. We clearly have a lot of work ahead of us to fully understand and address racial disparities in Vermont, including in health and health care.

Large Hospital Rate Increases Are Unjustifiable

Large commercial rate increases implemented in a single year place an undue burden on commercially insured and self-pay Vermonters. The University of Vermont Medical Center (UVMMC), Central Vermont Medical Center, Northwestern Medical Center, and Copley Hospital are proposing commercial rate increases that are substantially larger than those of their peers. While we recognize that some level of commercial rate increase may be unavoidable given our current health care financing system, it is critical that each year's increase is reasonable to ensure that Vermonters do not experience price shocks, that they continue to have access to needed health care, and that they can afford other necessities. Large, abrupt price increases are particularly troubling while Vermonters struggle to survive the current economic crisis.

While all large increases negatively affect Vermonters, we find UVMMC's rate and net patient care revenue (NPR) requests to be particularly problematic. As Vermont's largest and best-resourced hospital, UVMMC's 8% commercial rate increase request is unjustifiable in the current economic crisis and would exacerbate health care unaffordability in Vermont.

UVMMC argues that its 2021 budget includes an increased commercial rate to make up for years of underfunding by the Board, leading to decreased margins. We object to this argument for several reasons. First, UVMMC has not sufficiently demonstrated that it is doing everything it can to lower costs and increase efficiencies. Second, UVMMC has not adequately justified its position that it is necessary for the hospital to maintain the high margins that it enjoyed in previous years. Third, this is the worst possible time for UVMMC to ask Vermonters to pay substantially higher prices to support its margin. UVMMC claims that it must be reimbursed in 2021 for many years of perceived underfunding while, as outlined above, Vermonters are in the midst of an acute and serious financial crisis. Fourth, the upcoming presidential election along with the ongoing COVID-19 crisis makes it very difficult to predict what kind of health care and health reform landscape we will be facing in a year. We need to allow time for these dynamics to play out before we evaluate UVMMC's claims about its ongoing financial position. Finally, UVMMC's prices are already very high compared to other Vermont hospitals. Increasing the cost of services will undoubtedly cause an increase in

avoided and uncompensated care, especially during a financial crisis. Given this fact, it is unclear that large price increases would help UVMMC's margin to the extent claimed.

We understand that UVMMC's utilization was low in 2020 due to COVID-19. However, its requested 2021 commercial rate and associated NPR increase are high even after accounting for low 2020 budget projections. UVMMC's proposed commercial rate increase translates to higher budgeted 2021 NPR. UVMMC's budgeted NPR would result in significantly higher average annual NPR growth between 2019 actual and 2021 budget (5.9%) than its average actual annual NPR growth from 2014 to 2019 (4.0%). We also note that UVMMC has received substantial relief funds to alleviate the financial stresses of 2020.

High NPR and commercial rate increases undercut the cost-saving efforts of the Board over past years and are particularly ill-timed given the current economic challenges faced by Vermonters. We thus ask the Board to consider Vermonters' economic reality and reject large proposed commercial rate increases.

Provider Rate Setting Is Necessary For Health Care Reform

We again ask the Board to use its rate setting authority to ensure that Vermont's struggling hospitals can continue to provide needed services and that its more financially stable hospitals do not charge exorbitant prices. Unnecessarily high prices are a primary cause of the United States' unaffordable health care system.[7] Neither unrestricted negotiations nor negotiations under a commercial price cap are solving this issue in Vermont.

This year, the HCA again asked the hospitals to provide their commercial reimbursement rate as a percentage of their Medicare reimbursement rate. We were struck by the wide variation in reimbursement by hospital, which does not seem to be tied to need or value. We also continue to be frustrated by the fact that hospital pricing for individual services is not based on any analysis of cost to the provider or value to the patient. This dynamic causes Vermonters to be overcharged for many

[7] See e.g., Anderson GF, Reinhardt UE, Hussey PS, Petrosyan V., It's the Prices, Stupid: Why the United States is So Different from other Countries, Health Aff., 22(3):89–105 (2003), https://www.healthaffairs.org/doi/full/10.1377/hlthaff.22.3.89; Anderson GF, Reinhardt UE, Hussey PS, Petrosyan V., It's Still the Prices, Stupid: Why the U.S. Spends So Much on Health Care and a Tribute to Uwe Reinhardt, Health Aff. ; 38(1):89–105 (2019), https://www.healthaffairs.org/doi/10.1377/hlthaff.2018.05144.

health care services, impedes efforts to evaluate the appropriate impact of expense reduction strategies on the cost of services, and makes it difficult to set fixed prospective payments. Rational system-wide provider rate setting is a solution to these problems that has been implemented by other states. For example, Washington State recently enacted provider price setting at 160% of Medicare rates.[8] This pricing level was established with provider agreement.[9]

As with any policy solution, provider rate setting presents challenges. For instance, Medicare's approach to price setting may not work perfectly for all provider types (e.g., some argue that it underfunds primary care). The Board would be free to remedy this by setting a separate Medicare benchmark for certain service categories as needed. Such an approach would substantially improve Vermont hospital pricing practices, and, if done well, would provide much needed relief to Vermonters paying for commercial insurance and health care. We understand that the process would not be easy, but we believe it is necessary for effective health care reform. We call on the Board to start the necessary stakeholder engagement process as soon as the COVID-19 crisis has passed, or sooner if possible.

Data Standardization Is Critical

We ask the board to further standardize reporting in its future hospital budget guidance. Data standardization and shared accounting practices both within each hospital budget cycle and over time are critical to obtaining an accurate overview of the hospital system, and to identifying system trends and intervention opportunities. While substantial progress has been made in reporting standards in the hospital budget review process, there are multiple opportunities for further improvement. In particular, we ask the Board to require standardized reporting on two issues that would improve Vermonters' ability to use and compare hospital budget data.

First, hospitals currently book reserves related to Accountable Care Organization (ACO) risk differently. Four of thirteen hospitals that participate in one or more ACO programs booked

[8] Washington Senate Bill (WA SB) 5526, "Individual Health Insurance Market—Standardized and State-Procured Plans," July 28, 2019, https://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5526-S.SL.pdf.

[9] How Washington State Is Reducing Costs and Improving Coverage Value – A Q&A with its Health Benefit Exchange CEO, August 5, 2019, https://www.nashp.org/how-washington-state-is-reducing-costs-and-improving-coverage-value-a-qa-with-its-health-benefit-exchange-ceo/.

reserves that reduced NPR. Nine of the thirteen hospitals booked $0 for the reserve line item. Two hospitals booked ACO risk reserves for their 2020 budget but not for their 2021 budget. Two other hospitals booked reserves for their 2021 budget but not for their 2020 budget. While we are aware that each hospital's auditors and boards have individual preferences that likely drive this variation, the variation undermines the comparability of NPR and other derivative data elements across hospitals and time. For the purposes of the hospital budget review process, we ask the Board to require hospitals to report ACO risk in a comparable way. If needed, hospitals can explain any variations between their hospital budget reporting and their annual statements.

Second, it appears that there is not a consistent practice for how free care and bad debt are carried through to the payer mix calculations. For instance, Brattleboro Memorial Hospital reduces the Self-Pay/Other/WC line by free care and bad debt while it appears that some other hospitals apply free care and bad debt to the commercial line and others do not apply free care and bad debt to the payer mix calculations at all. As with the booking of ACO risk reserves discussed above, this variation in reporting undermines Vermonters' ability to make "apples to apples" comparisons between hospitals or across time. For the purposes of the hospital budget review process, we ask the Board to require hospitals to calculate payer mix data in a comparable way.

Conclusion

In this time of crisis, we appreciate more than ever that Vermont had the foresight to allow for thoughtful price regulation within our health care system. As always, we thank the Board for your efforts to control the growth of health care costs in Vermont. We ask you to consider Vermonters' financial and health care crises and to do everything within your power to promote health care affordability and access.

Please do not hesitate to contact us at hcapolicystaff@vtlegalaid.org with any questions or concerns.

Sincerely,

s\ Michael Fisher, Chief Health Care Advocate
s\ Kaili Kuiper, Staff Attorney
s\ Eric Schultheis, Staff Attorney
s\ Julia Shaw, Health Care Policy Analyst