



December 23, 2019

Donna Jerry
Senior Health Policy Analyst
Green Mountain Care Board
144 State St.
Montpelier, VT 05602

RE: Docket No. GMCB-003-19con, Emergency Department Modernization Project

Dear Donna:

Thank you for your November 19, 2019 request regarding the above-referenced project.

Attached you will find our responses to your questions and the verification under oath form.

I hope you will find these clarifications complete and satisfactory. If you have any additional questions, please contact Jonathan Billings, NMC's Vice President of Community Relations & RiseVT, at jbillings@nmcinc.org or (802) 524-1044.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Bowen", is written over a faint, larger signature.

Jill Berry Bowen, RN
Chief Executive Officer

CC: Jonathan Billings, NMC Vice President of Community Relations & RiseVT
Anne Cramer, Esq.

Verification Under Oath

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Northwestern Medical Center's)
Emergency Department)
Modernization Project)
Response to 10/29/19 Request) Docket No. GMCB-003-19con

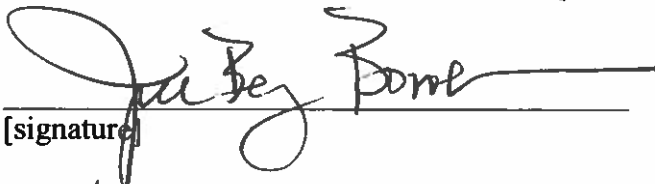
Verification Under Oath to file with Certificate of Need Application, correspondence and additional information subsequent to filing an Application.

Jill Berry Bowen, being duly sworn, states on oath as follows:

1. My name is Jill Berry Bowen. I am the Chief Executive Officer of Northwestern Medical Center. I have reviewed Northwestern Medical Center's response to the Green Mountain Care Board's request dated 11/19/19 regarding NMC's Certificate of Need Application for our Emergency Department Modernization project (Docket No. GMCB-003-19con).
2. Based on my personal knowledge and after diligent inquiry, I attest that the information contained in Northwestern Medical Center's response to the Green Mountain Care Board's request dated 11/19/19 regarding NMC's Certificate of Need Application for our Emergency Department Modernization project (Docket No. GMCB-003-19con) is true, accurate and complete, does not contain any untrue statement of a material fact, and does not omit to state a material fact.
3. My personal knowledge of the truth, accuracy and completeness of the information contained in the Northwestern Medical Center's response to the Green Mountain Care Board's request dated 11/19/19 regarding NMC's Certificate of Need Application for our Emergency Department Modernization project (Docket No. GMCB-003-19con) is based upon either my actual knowledge of the subject information or upon information reasonably believed by me to be true and reliable and provided to me by the individuals identified below in paragraph 4. Each of these individuals has also certified that the information they have provided is true, accurate and complete, does not contain any untrue statement of a material fact and does not omit to state a material fact.
4. The following individuals have provided information or documents to me in connection with Northwestern Medical Center's response to the Green Mountain Care Board's request dated 11/19/19 regarding NMC's Certificate of Need Application for our Emergency Department Modernization project (Docket No. GMCB-003-19con) and each individual has certified, based either upon his or her actual knowledge of the subject information or, where specifically identified in such certification, based on information reasonably believed by the individual to be reliable, that the information or documents provided are true, accurate and complete, do not contain any untrue statement of a material fact, and do not omit to state a material fact:

- JoAnn Manahan, RN, NMC Emergency Department Nurse Manager
- Dr. Louis Danderand, NMC Emergency Department Medical Director
- Dr. John Minadeo, NMC Chief Medical & Quality Officer
- Jamie Pinkham, NMC Manager of Regulator Affairs
- Tyson Moulton, NMC Director of Facilities
- Jonathan Billings, NMC Vice President of Community Relations & RiseVT

5. In the event that the information contained in the Northwestern Medical Center's response to the Green Mountain Care Board's request dated 11/19/19 regarding NMC's Certificate of Need Application for our Emergency Department Modernization project (Docket No. GMCB-003-19con) becomes untrue, inaccurate or incomplete in any material respect, I acknowledge my obligation to notify the Green Mountain Care Board and to supplement the Northwestern Medical Center's response to the Green Mountain Care Board's request dated 11/19/19 regarding NMC's Certificate of Need Application for our Emergency Department Modernization project (Docket No. GMCB-003-19con) as soon as I know, or reasonably should know, that the information or document has become untrue, inaccurate or incomplete in any material respect.



 [signature]

On 12/23, 2019, Jill Berry Bowen appeared before me and swore to the truth, accuracy and completeness of the foregoing.



 Notary public

My commission expires 1/31/21
 [seal]



**Northwestern Medical Center Certificate of Need Response to 111919 Request for Response
Emergency Department Modernization: GMCB-003-19con**

The following are Northwestern Medical Center's (NMC's) responses to the Green Mountain Care Board's (GMCB's) requests for response dated 11/19/19 regarding NMC's Certificate of Need application and request for expedited review relating to NMC's Emergency Department (ED) Modernization project – GMCB-003-19con.

In this request for response, GMCB referenced two communications: a correspondence dated 11/11/19 from Anne Donahue, Ward Nial, Dan Towle, and thirteen co-signers (referred to here as "the Donahue et al letter") and a memorandum dated 11/14/19 from Sarah Squirrell, the Commissioner of the Department of Mental Health (referred to here as "Commissioner Squirrell's memo"). In this response, NMC will speak to the themes raised in both of those communications as well as the specific questions at the end of Commissioner Squirrell's memo. The themes drawn from the communications and the specific questions are presented in bold below, followed by NMC's response in plain indented text.

The Donahue et al letter:

A) This letter speaks to concerns regarding a "lack of appropriate patient space" focusing on a "... calming space that is set off from other ED areas ..." and "... areas outside their rooms to socialize or engage in activities ... (and) engagement with peer supports and family members". The letter concludes with a request for "... access to a common space for patients within the sub-suite, including adequacy for peer and family visits ..."

NMC places great emphasis on our healing environment and recognizes the importance of the least restrictive environment possible while ensuring safety for patients and staff. The modernization of the NMC Emergency Department is exactly that – an Emergency Department project. The purpose of this space is to provide for safe provision of care for the emergent medical needs of our patients in a safe work environment for our staff. This is not an inpatient psychiatric facility and is not intended to function as such. NMC continues to advocate for improved inpatient mental health infrastructure in the state dating back to the loss of the State hospital due to flood damage. Inpatient psychiatric bed capacity needs to be addressed in Vermont, but not by relying on hospital emergency departments to board patients with significant psychiatric needs for extended periods of time awaiting proper placement in an appropriate facility. As such, the modernization of the NMC Emergency Department does not include certain aspects of a full inpatient psychiatric facility such as an activity room or dedicated socialization space. Rather, we are designing the modernized Emergency Department to be a more private and calming area for the treatment of all patients, including those with significant psychiatric needs. Private rooms with windows are a meaningful enhancement over our curtained treatment areas and rooms without windows. This will improve the environment for patients' private interaction with their loved ones and other visitors as appropriate. Activity rooms and group seating rooms naturally feature items that present a safety concern for patients who are at risk of harming themselves or others. Our design provides for the care of those with significant psychiatric needs in a quieter section of the department where the hallway can be used for patient ambulation in appropriate clinical situations. Plus, the Emergency Department will have a supply of activity materials that can be brought into patient rooms when safety and clinical conditions allow. We believe this provides the proper environment with an Emergency Department for all patients. We also believe in the judgement of our staff and providers, whose compassion will

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guide the individual care plans to most appropriately and safely incorporate socialization and activity into our patients' stays within the Emergency Department.

B) This letter speaks to concerns regarding “violation of right to voluntary and dignified care” focusing on “... no distinction between patients who are seeking out medical care ...” and those “... under the care and custody of the Commissioner of the Department of Mental Health ...” in relation to treatment in a “... secure, locked area ...” for those “... who also have significant safety needs ...” It questions “CMS Standards” as they relate to locking capability for certain rooms within the proposed design and questions NMC’s perception that CMS has indicated that Rutland Regional Medical Center’s design is “best practice.” The letter concludes with a request for “... a subsection of the ED that is not segregated by locked doors and does not lock patients in, except for the capacity to have a secure portion that is utilized solely for patients under the legal custody of the state and only when it meets the least restrictive means for safety ...”

NMC respects the importance of dignified care and it is our mission to provide exceptional care to every one of our patients in every encounter. It is important to understand that the designations of “voluntary” versus “involuntary” or the designation of custody do not necessarily align with the reality of a patient’s potential to or intent to harm themselves or others. A patient who is at NMC voluntarily and not in custody may well still be suicidal/homicidal or may pose a threat to themselves or others. As part of our mission of exceptional care, NMC carries an obligation to keep our patients safe, even from themselves, and to keep our staff safe. As such, the modernization of the NMC Emergency Department creates a flexible environment that is acuity adaptable. This includes the option to lock certain private patient rooms (the two ligature-free safe holding rooms and the two rooms which are convertible to provide a safer room as needed) as well as that portion of the department. This capability gives the medical team the physical capacity to make a safety-based decision based on safety regarding the necessity of locking a certain door in a specific clinical circumstance. The FGI Guidelines of the Facilities Guidelines Institute are addressed both within the Green Mountain Care Board’s Certificate of Need process and within the Joint Commission’s hospital accreditation process. The FGI guidelines for Emergency Departments sections 2.2-3.1.4.3(3)(d) reference locking capabilities for secure patient holding rooms. CMS regulations speak to patient rights and restraints and seclusion in CFR 42.13 and specifically CFR 482.13c. The goal of our space design is to align with these guidelines and regulations by providing a new flexible environment with acuity adaptability for exceptional care for all patients and our staff while ensuring their safety. Our patients who are at risk to harm themselves or others, regardless of whether they are “voluntary” or “involuntary” or in custody have all been considered moving forward in this new space. The design’s flexibility and acuity adaptability will allow us to create and safely implement appropriate and compassionate individualized care plans for each of our patients. That will be a tremendous improvement over current conditions.

In reference to Rutland Regional and CMS, during our recent work with CMS, NMC had several discussions with Suzanne Leavitt, Director of the Vermont Division of Licensing and Protection as well as the CMS Regional Office out of Boston, who both advised the

Rutland's approach to creating a safe and flexible environment for all patients requiring acute treatment for behavior health. On a call with Ms. Leavitt in December 2018 with NMC's CEO, CCO, CNO, ED Leadership & Regulatory Affairs Manager, it was her suggestion specifically to reach out to our contacts at Rutland Regional Medical Center for guidance on how to improve both our Emergency Department Processes for caring for the suicidal/homicidal and emotionally ill patient as well as our physical space. During their onsite validation visit in January 2019 to ensure we had completed our corrective action plan, Ms. Leavitt again indicated that continuing to model our work on Rutland's would help NMC to provide safe and appropriate care in the right setting at the right time for all of our patients.

The Commissioner Squirrelle memo:

A) This memo speaks to the "Optimized and Least Restrictive Environment" which "... should be designed in accordance with the overall volume of patients presenting with mental health needs" referencing that "data indicates the vast majority are voluntarily seeking mental health care."

We would agree with this characterization that the majority of patients seeking mental health care are doing so "voluntarily." As we discuss above, it is important to recognize that this designation does not impact their likelihood of harming themselves or others. A patient may come to the NMC Emergency Department on a fully voluntary basis and still be suicidal/homicidal or dangerously violent to the point of being a danger to themselves or others. Appropriate safety precautions still have to be used in this clinical instance, despite the fact that the patient is there voluntarily. This is a routine reality in a busy Emergency Department. The design of our facility must provide for a "least restrictive environment" with the flexibility and acuity adaptability for the space to support the medical team's judgement as situations unfold. We have worked diligently to ensure the proposed design does exactly that.

B) This memo speaks to "Additional Patient Space" and "Having a comfortable area outside of their individual patient room they can freely access."

As discussed above in response A to the Donahue et al letter, the modernization of the NMC Emergency Department does not include certain aspects of a full inpatient psychiatric facility such as an activity room or dedicated socialization space. Rather, we are designing the modernized Emergency Department to be a more private and calming area for the treatment of all patients, including those with significant psychiatric needs. Private rooms with windows are a meaningful enhancement over our curtained treatment areas and rooms without windows. This will improve the environment for patients' private interaction with their loved ones and other visitors as appropriate. Activity rooms and group seating rooms naturally feature items that present a safety concern for patients who are at risk of harming themselves or others. Our design provides for the care of those with significant psychiatric needs in a quieter section of the department where the hallway can be used for patient ambulation in appropriate clinical situations. Plus, the Emergency Department will have a

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supply of activity materials that can be brought into patient rooms when safety and clinical conditions allow. We believe this provides the proper environment with an Emergency Department for all patients. We also believe in the judgement of our staff and providers, whose compassion will guide the individual care plans to most appropriately and safely incorporate socialization and activity into our patients' stays within the Emergency Department.

C) This memo speaks to “Locked Rooms” saying “While we appreciate there may be safety concerns that cause some involuntary patients to be locked, we do not believe voluntary patients should be locked.”

As discussed above in response B to the Donahue et al letter, NMC respects the importance of dignified care and it is our mission to provide exceptional care to every one of our patients in every encounter. It is important to understand that the designations of “voluntary” versus “involuntary” or the designation of custody do not necessarily align with the reality of a patient’s potential to or intent to harm themselves or others. A patient who is at NMC voluntarily and not in custody may well still be suicidal/homicidal or may pose a threat to themselves or others. As part of our mission of exceptional care, NMC carries an obligation to keep our patients safe, even from themselves, and to keep our staff safe. As such, the modernization of the NMC Emergency Department creates a flexible environment that is acuity adaptable. This includes the option to lock certain private patient rooms (the two ligature-free safe holding rooms and the two rooms which are convertible to provide a safer room as needed) as well as that portion of the department. This capability gives the medical team the physical capacity to make a safety-based decision based on safety regarding the necessity of locking a certain door in a specific clinical circumstance.

D) This memo contained several “Additional Questions:”

1. Has NMC specified who would use these beds? Would the beds be reserved for certain diagnoses? Certain levels of acuity?

The two ligature-free safe holding rooms will be used for patients who are at risk for harming themselves or others. This includes patients who are suicidal/homicidal. Depending on the volume of patients in this category, the convertible rooms may also be used in these situations. Typically the ligature-free safe holding rooms would not be used for patients with routine medical concerns, whereas the convertible rooms may be used as such depending on departmental capacity. In rare times of patient surge within the Emergency Department, it may be necessary and advisable to also use the ligature-free rooms to care for more routine medical needs and we need the flexibility to do so.

2. If someone is a voluntary patient, can they choose where they wait – i.e. can they decide to stay in the main ED?

If someone was a voluntary patient and was deemed to not be at risk to harm themselves or others and did not need a 1:1 safety watch, and departmental capacity allowed for it

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without disruption of care to others, a patient request to be treated or wait in a particular room with the Emergency could be accommodated. This would be part of the individualized care plan developed between the patient and their care team.

- 3. Is this unit for adults only or also for children and adolescents? If the plan is to mix age groups, how do they plan to mix them together safely and in the least restrictive manner?**

All rooms within the NMC Emergency Department are designed to care for individual patients regardless of age. This includes the two ligature-free safe holding rooms and the two convertible rooms. Each patient will have the benefit of a private room. Emergency Department patients typically do not interact with one another as the focus is on each individual's emergent medical needs. In the creation and implementation of the individualized care plan for each patient, appropriate judgement will be used within the bounds of departmental capacity regarding room selection, ambulation, etc.

- 4. Has NMC created written guidance as to when these rooms/areas will be locked and/or monitored?**

Written guidance has not yet been formalized. We have had significant conversation within our Emergency Department medical team and nursing leadership on this topic. We will be reviewing policies from other hospitals; consulting Northwestern Counselling & Support Services; and aligning with regulations as part of our work to formalize an official policy and procedure for the locking of rooms and the monitoring of our patients. This will be followed by appropriate staff education and training to ensure proper compliance with our policy and procedure.

- 5. We agree with the concerns outlined in the letter sent by Anne Donahue on behalf of individuals with lived experience that additional space outside a patient room is very important. Did NMC discuss more space with the individuals with lived experience they spoke to or the staff at NCSS?**

The design and floor plan of the modernization of the NMC Emergency Department was discussed with NCSS and their group included individuals identified to us as having lived experience. A request for additional space outside Emergency Department rooms did not arise from those discussions and the review of the floor plans.

- 6. NMC, in their most recent communications to the GMCB on 11/5/19, stated “[w]e are planning on following the design from Rutland Regional Medical Center, *specified* by the Centers of Medicaid and Medicare (CMS) as best practice, that includes installing the ability to lock the individual behavioral health and flex rooms.” (emphasis added). We are unaware of any such guidance by CMS, have they provided any documentation or a citation for this guidance?**

As discussed above in response B to the Donahue et al letter, during our recent work with CMS, NMC had several discussions with Suzanne Leavitt, Director of the Vermont

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Division of Licensing and Protection as well as the CMS Regional Office out of Boston, who both advised the Rutland's approach to creating a safe and flexible environment for all patients requiring acute treatment for behavior health. On a call with Ms. Leavitt in December 2018 with NMC's CEO, CCO, CNO, ED Leadership & Regulatory Affairs Manager, it was her suggestion specifically to reach out to our contacts at Rutland Regional Medical Center for guidance on how to improve both our Emergency Department Processes for caring for the suicidal/homicidal and emotionally ill patient as well as our physical space. During their onsite validation visit in January 2019 to ensure we had completed our corrective action plan, Ms. Leavitt again indicated that continuing to model our work on Rutland's would help NMC to provide safe and appropriate care in the right setting at the right time for all of our patients.