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October 4, 2023

Owen Foster, Chair
Green Mountain Care Board
144 State Street
Montpelier, VT 05602

Re: HCA Comment Regarding Waiver Request & Deadline Extension for Vytalize Health 9 ACO, LLC

Dear Chair Foster and Members of the Green Mountain Care Board:

The Office of the Health Care Advocate (HCA) thanks the Green Mountain Care Board (Board) for the opportunity to comment on the request from Vytalize Health 9 ACO, LLC (Vytalize) that the Board waive a budget hearing outlined in GMCB Rule 5.404(a) and partially waive the budget review requirements detailed in GMCB Rule 5.405(c)2. We recommend that the Board reject Vytalize's request.

As with Clover's request for a waiver of GMCB budgetary oversight in 2021, which was appropriately rejected by the Board, Vytalize similarly argues that it should be exempt from some provisions of Board oversight simply because the organization is already required to comply with CMS regulations and requirements. However, the Board's budget review factors are reflective of Vermont's distinct and long history of health reform. When the legislature set out the requirements for ACO budget oversight, it could have exempted Medicare only ACOs. It did not. Vytalize's waiver request therefore conflicts with 18 V.S.A. § 9382 - Oversight of Accountable Care Organizations.

We also do not find Vytalize's argument that compliance with GMCB's budget review process would impose an "unnecessary hardship" to be credible given Vytalize possesses a management team of over 40 staff, managers, and administrators and currently manages over \$2 billion dollars.¹ While we recognize that participating in the Board's process does require real work on behalf of the regulated entity, Vytalize has not presented any compelling evidence that compliance with the Board's regulations would impose a significant administrative burden. Simply put—regulated entities must follow the law.

Lastly, given that Vytalize is a new entity to Vermont, it is important that the organization be required to participate in a public hearing to provide an opportunity for the Board, the HCA, and the public to learn more about its model, operations, and goals for serving Vermonters. Thank you for your consideration.

Sincerely,

s\ Sam Peisch, Health Policy Analyst

s\ Charles Becker, Staff Attorney

s\ Eric Schultheis, Staff Attorney

cc: Tenny Lucia, Steven Greenspan, and Gary Thompson at Vytalize Health

¹ <https://www.vytalizehealth.com/our-team>; <https://www.vytalizehealth.com/our-results>