STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

FY2024 HOSPITAL BUDGET DECISION AND ORDER

In re:	Porter Hospital	)	Docket No. 23-011-H
	Fiscal Year 2024	)	
		)	

INTRODUCTION

This year the Green Mountain Care Board's (GMCB or "the Board") annual process to establish hospital budgets comes at a critical time for Vermonters. In addition to other inflationary pressures, Vermonters have seen health care costs increase over past years, with systemwide hospital net patient revenue and fixed prospective payments (NPR/FPP) growing from $2.75 billion in Fiscal Year 2021 to a budgeted $3.6 billion for Fiscal Year 2024 (FY24). According to the 2021 Vermont Household Health Insurance Survey, 44% of privately insured Vermonters under the age of 65 are underinsured.[1] Vermont median income is projected to grow 3.9% from FY23 to FY24, and 8.6% from FY22 to FY24.[2] The Medicare Market Basket for Inpatient Hospitals is projected to grow 3.1% from FY23 to FY24, and 7.0% from FY22 to FY24.[3] At the same time, hospitals continue to face staffing and workforce challenges, a reliance on more expensive temporary and traveling nursing staff, and other cost inflation.

In July, the Board began reviewing the FY24 budgets of Vermont's 14 general (community) hospitals for compliance with the benchmarks and expense growth and financial factors adopted by the Board, and the criteria the Board must consider under statute. The financial benchmarks include NPR/FPP growth of not more than 8.6% in total from a hospital's actual FY22 results to its FY24 budget. *See* GMCB, FY 2024 Hospital Budget Guidance and Reporting Requirements (Mar. 31, 2023), 6 (FY24 Guidance).[4] Individual hospital NPR/FPP growth ranged from 7.18% to 28.4% on a FY22 actual to FY24 budget basis.[5] *See* FY24 Hospital Budget Review Tool, Overview.[6] Individual hospital operating expense growth ranged from -1.79% to 17.84% over the same period. *See id.* Hospital budget submissions also reflected charge increases ranging from 1.5% to 15%, which would have resulted in increases to commercial prices ranging from 1.1% to 13.5%. *See id.*

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[1] *See* Vermont Department of Health, 2021 Vermont Household Health Insurance Survey (March 2022), 44-45, available at: https://www.healthvermont.gov/sites/default/files/documents/pdf/HSVR-VHHIS-2021-Report.pdf.
[2] Median Household Income for 2021-2022 is from the U.S. Census Bureau and 2023-2029 forecasted by Moody's Analytics.
[3] Medicare Market Basket Data is sourced from the IHS Global Inc. (IGI) 2023Q1 Forecast released by CMS, OACT, National Health Statistics Group.
[4] The hospitals' FY24 budget materials, including their budget narratives and responses to questions, are available on the GMCB website at: https://gmcboard.vermont.gov/FY2024hospitalbudgets. Transcripts of the hospital budget hearings and deliberations are available upon request.
[5] In accordance with the FY24 Guidance, hospitals may request "adjustments" to their actual FY22 NPR/FPP, which, if approved, are not factored into their total NPR/FPP increase. These adjustments most frequently reflect provider transfers but may also be driven by other accounting adjustments. *See* FY24 Guidance, 3.
[6] The FY24 Hospital Budget Review Tool is available at: https://public.tableau.com/app/profile/state.of.vermont/viz/hospitalbudgetreviewtool/OVERVIEW.

Following public Board meetings, presentations by hospitals and GMCB staff, and a special public comment period that closed on August 25, 2023, the Board deliberated on each hospital's budget using a decision tree approach and established each hospital's budgeted NPR/FPP increase, resulting in an expected systemwide growth of 6.6% over projected FY23 results. *See* Press Release, GMCB Establishes FY24 Hospital Budgets Balance Affordability and Sustainability, 1.[7] The two-year NPR increase approved by the GMCB, from FY22 actuals to FY24 approved budgets, is 18.2% system-wide ($548 million). In its FY24 decisions, GMCB adjusted seven hospitals' budgets to limit the rate increases that impact commercially insured patients, representing a 7.8% reduction ($145 million) in NPR from submitted budgets. *See id*. The Board approved an estimated systemwide charge increase of 4.1%, which, when combined with FY23 budget approvals, results in a two-year systemwide charge increase of 14.6%. *See id*.

LEGAL FRAMEWORK

Hospital budget review is one of the Board's core regulatory responsibilities. 18 V.S.A. §§ 9375(b)(7), 9456. The Board must establish each hospital's budget annually no later than September 15 and is required to issue written decisions reflecting each hospital's established budget by October 1. 18 V.S.A. § 9456(d)(1). In making its decisions, the Board is guided by its statutory charge "to promote the general good of the state by: (1) improving the health of the population; (2) reducing the per capita rate of growth in expenditures for health services in Vermont across all payers while ensuring that access to care and quality of care are not compromised; (3) enhancing the patient and health care professional experience of care; (4) recruiting and retaining high quality health care professionals; and (5) achieving administrative simplification in health care financing and delivery." 18 V.S.A. § 9372. Additionally, the Board must execute its duty of annually establishing each hospital's budget in a way that advances the principles of healthcare reform set forth in 18 V.S.A. § 9371. *See* 18 V.S.A. § 9375(a). The principles include that "The State of Vermont must ensure universal access to and coverage for high-quality, medically necessary health services for all Vermonters. Systemic barriers, such as cost, must not prevent people from accessing necessary health care." 18 V.S.A. § 9371(a)(1). The principles also include a responsibility of the Board that "[o]verall health care costs must be contained, and growth in health care spending in Vermont must balance the health care needs of the population with the ability to pay for such care." 18 V.S.A. § 9371(a)(2). Additionally, "Primary care must be preserved and enhanced so that Vermonters have care available to them, preferably within their own communities." 18 V.S.A. § 9371(a)(4). The Board also has a responsibility to ensure that "Vermont's health care system must include mechanisms for containing all system costs and eliminating unnecessary expenditures, including by reducing administrative costs and by reducing costs that do not contribute to efficient, high-quality health services or improve health outcomes. Efforts to reduce overall health care costs should identify sources of excess cost growth." 18 V.S.A. § 9371(a)(10). The Board may adjust proposed budgets that fail to comply with the Board's established benchmarks and other guidance. GMCB Rule 3.000, § 3.305. The Board may also adjust a hospital's established budget based on the Board's independent review of a hospital's budget performance. 18 V.S.A. § 9456(f); GMCB Rule 3.000, § 3.401.

[7] Available at: https://gmcboard.vermont.gov/content/press-releases.

Hospitals bear the burden of persuasion in justifying their proposed budgets. GMCB Rule 3.000, § 3.306(a). During its review, the Board must consider numerous factors utilizing established data sources, including hospitals' compliance with the NPR/FPP growth guidance established by the Board, the hospitals' past budgets and budget performance, labor expenses, utilization, pharmaceutical expenses, cost inflation, commercial price changes, financial indicators, pricing changes for Medicare and Medicaid, uncompensated care, administrative costs, productivity and efficiency indicators, including hospital's administrative costs, costs per discharge, salary allocations, and ratio of administrative salaries and expenses to clinical or other salaries and expenses, factors and trends introduced by hospitals, the Board's mandate under statute and rule, public comment on all aspects of hospital use and cost and comments on individual hospital budgets, and any other information the Board deems relevant. *See* 18 V.S.A. § 9456(b); GMCB Rule 3.000, § 3.306(b); FY24 Guidance. Each approved budget must, among other requirements, be consistent with state and community health care needs, reflect the hospital's budget performance for prior years, take into consideration national, regional, or in-state peer group norms, according to indicators, ratios, and statistics established by the Board, and promote the hospital's efficient and economic operations. *See* 18 V.S.A. § 9456(c).

The Board annually adopts guidance by March 31 that establishes benchmarks for hospitals to use in developing and preparing their upcoming fiscal year's budgets. GMCB Rule 3.000, § 3.202. The Board issued guidance for FY24 budgets on March 31, 2022, after public meetings with Vermont hospitals, the Vermont Association of Hospitals and Health Systems, the Office of the Health Care Advocate (HCA) and other interested parties.[8] The Board continued the NPR/FPP growth guidance first adopted as part of the GMCB's FY23 budget guidance of not more than an aggregate of 8.6% for FY23 and FY24, combined, measured over the FY22 actual results. FY24 Guidance, 6. The FY24 Guidance stated: "Hospitals whose budgets comply with the [NPR/FPP] benchmark will be reviewed for reasonableness of the factors and assumptions outlined in Section I and compliance with the filing requirements of the guidance (i.e., completeness and timeliness). Staff will recommend approval without modification for all hospital budgets that comply with the [NPR/FPP] benchmark, are based on reasonable assumptions, and meet the administrative filing requirements of the guidance. Hospitals proposing budgets that exceed the benchmark must provide evidence to support the need for additional [NPR/FPP], which will be assessed by the GMCB using the factors set out in Section I of this guidance and consistent with the GMCB's statutory obligations." FY24 Guidance, 3. The FY24 Guidance further identified the data sources, indicators, and peer groups that would be used to assess the identified factors for hospitals that exceeded the established benchmark. FY24 Guidance, 7-10.

FY24 REVIEW PROCESS

The GMCB adopted FY24 Guidance on March 31, 2023. The FY24 Guidance included a benchmark for NPR/FPP growth capped at an aggregate of 8.6% for FY23 and FY24 combined (over each hospital's actual FY22 results). FY24 Guidance, 6. The FY24 Guidance also stated the Board may review and adjust proposed operating expenses commensurate with any changes made to a hospital's NPR/FPP, and that the Board will review and may adjust commercial rate

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[8] The Board's FY24 Guidance is available at https://gmcboard.vermont.gov/sites/gmcb/files/documents/FY24%20Guidance%20Updated%202023_05_24.pdf.

increases. *See id*. The FY24 Guidance set out several factors the Board would review and consider relating to expense growth, labor expenses, utilization, pharmaceutical expenses, cost inflation, commercial price changes, financial indicators, pricing changes in Medicare and Medicaid, changes in uncompensated care, productivity and efficiency indicators, and other relevant factors proposed during the budget review process. The FY24 Guidance also specified that the Board's review process will be consistent with the principles for health care reform in 18 V.S.A. § 9371, as required by 18 V.S.A. § 9375(a) and (b)(7), including considering the extent to which a hospital's budget advances the principle that all Vermonters must receive affordable and appropriate health care at the appropriate time in the appropriate setting (18 V.S.A. § 9371(1)) and the principle that overall health care costs must be contained and growth in health care spending in Vermont must balance the health care needs of the population with the ability to pay for such care (18 V.S.A. § 9371(2)), and will adhere to the hospital budget review requirements of 18 V.S.A. § 9456(c), including the requirement that established budgets shall promote efficient and economic operation of the hospital (18 V.S.A. § 9456(c)(3)). *See* FY24 Guidance, 6-10. The FY24 Guidance identified data sources that the Board could consider in conducting its review. *See id*.

Prior to hospital budget submissions, on May 3, 2023, the Vermont Association of Hospitals and Health Systems requested the GMCB reconsider the 8.6% NPR/FPP growth benchmark established in the FY24 Guidance. *See* Letter from Michael Del Trecco, President & CEO of Vermont Association of Hospitals and Health Systems to Owen Foster, Chair GMCB, Re: VAHHS Request for Amendment to the FY 2024 Hospital Budget Guidance (May 3, 2023) (Reconsideration Request).[9] Following deliberations and a public comment period on the Reconsideration Request, the GMCB voted unanimously on May 31, 2023, not to modify its FY24 Guidance NPR/FPP benchmark. *See* Letter from Owen Foster, Chair GMCB, to Michael Del Trecco, President & CEO of Vermont Association of Hospitals and Health Systems to Re: VAHHS Request for Amendment to the FY 2024 Hospital Budget Guidance (June 2, 2023).[10] The GMCB received approximately 100 public comments in connection with the request, with the majority of commenters who were not affiliated with a hospital asking the GMCB to maintain the NPR/FPP growth benchmark, many citing the affordability of health care and the significant expense pressures faced by more than just hospitals and the impact that large hospital rate increases have on the limited reimbursement and rate increases that independent providers in other parts of the health care system have been able to receive.

Hospitals submitted their FY24 budgets to the GMCB on or about July 1, 2023, and presented their budgets at public GMCB meetings between August 9, 2023 and August 25, 2023. The Board and its staff reviewed and analyzed FY24 budget information submitted and presented by the hospitals, including detailed financial information, utilization data, expense growth, inflation costs, population health goals, value-based care participation, patient access data, administrative cost and efficiency metrics, cost coverage, specific quantitative and qualitative

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[9] Available at: https://gmcboard.vermont.gov/sites/gmcb/files/documents/GMCB%20Letter%20on%20FY24%20Hospital%20Budget%20Guidance%20Reconsideration%205%203%2023.pdf.

[10] Available at: https://gmcboard.vermont.gov/sites/gmcb/files/documents/Letter%20to%20VAHHS%20from%20GMCB%20_%206.2.23.pdf.

measures for patient wait times, NPR/FPP growth rates, changes in charge and rate increases, prior budget performance, and the reliance on changes in charge for commercial revenues. As part of its review, and consistent with its role, the GMCB assessed the credibility of information, claims, and assertions provided by the hospitals in their budget submissions, hearings, and in supplemental filings in connection with their budget submissions.

The Board received and considered comments from the HCA and from members of the public. The Board also considered each hospital's unique circumstances, including its health care reform efforts, capital and infrastructure needs, hospital-specific risks and opportunities, and cost-reduction initiatives, and opportunities for cost reduction.

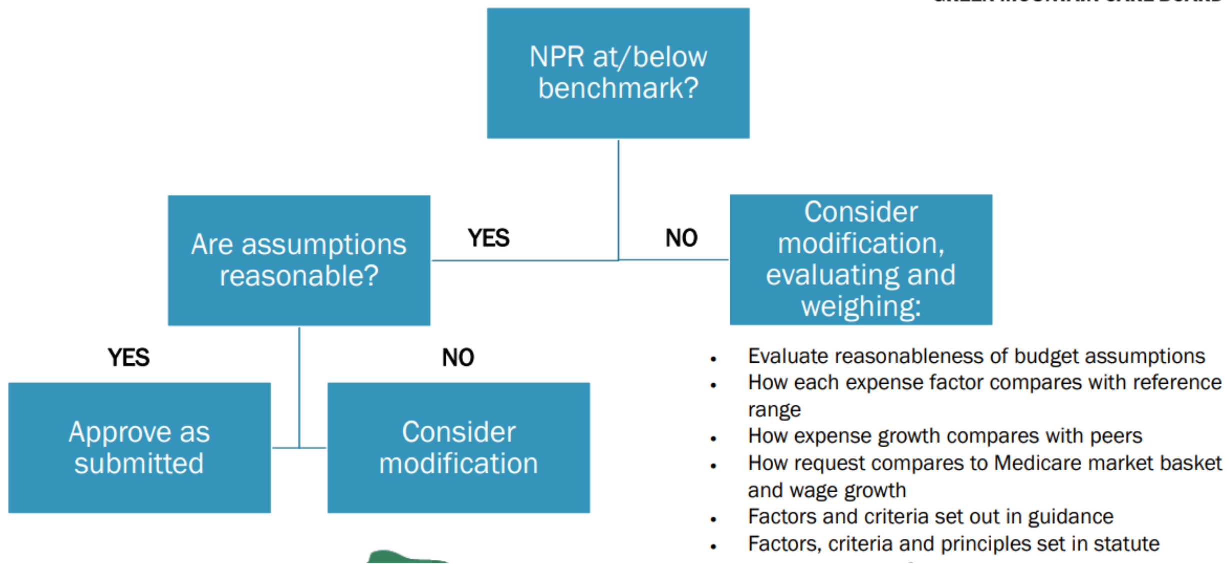
The hospitals requested a collective NPR/FPP increase of 19.1% over the systemwide FY22 actual NPR/FPP. Overview of FY24 Hospital Budgets, GMCB Staff Presentation (Aug. 9, 2023), 19. After considering presentations from and discussions with hospital leadership, analysis prepared by GMCB staff, and input from the HCA and the public, the Board established for each hospital a budget with a maximum NPR/FPP growth and a maximum change in charge, with commercial rates subject to the cap and also subject to downward adjustment through negotiation with commercial insurers. Following the GMCB's adjustments, the systemwide NPR/FPP increase from FY22 actuals to FY24 approved budgets was 18.2%. *See* Press Release, GMCB Establishes FY24 Hospital Budgets Balance Affordability and Sustainability, 1.

The Board also reviewed each hospital's proposed change in charge, which is the average amount by which a hospital increases its charges.[11] The Board collected and reviewed from each hospital its estimated impact on commercial rate payers that would result from the hospital's budgeted change in charge. A hospital's overall change in charge is not the same as the increase paid by commercial payers, but in establishing a cap for changes in charge the Board also established a cap for commercial rate increases. The Board modified its standard budget conditions for FY24 in order to cap commercial rate increases in a consistent way across hospitals, and to make explicit that the Board's rate increases are a cap, subject to further negotiations between hospitals and commercial payers, and may not be represented by hospitals as an amount guaranteed by the GMCB approvals.

The Board also reviewed each hospital's investments in workforce development initiatives, including nursing workforce pipeline collaborations with nursing schools and compensation and other support for nurse preceptors. Other factors considered by the Board in reviewing each hospital's budget included the impacts on Vermonters and employers in the commercial market, including self-funded employers; considerations of Medicare and/or Medicaid payment changes on the commercial rate increases; impacts of Medicare and/or Medicaid payment changes and changes to rate of uninsured; hospital reimbursement variation data; cost and cost coverage data; data relative to payments to similar hospitals; relative costs for similar hospitals; payer mix; generally accepted measures of medical inflation; and productivity and efficiency indicators, including administrative costs, costs per discharge, salary allocations, ratio of administrative salaries and expenses to clinical or other salaries and expenses, and information regarding wait times (referral lag and visit lag) for certain service lines and procedures collected and submitted by hospitals.

[11] Changes to the actual charges vary by hospital and across service lines and by procedure.

To organize and facilitate the consistent review of each hospital, GMCB staff led a review and discussion of each hospital's budget with hospital leadership during a budget hearing, and then presented a review of each hospital's budget and associated factors, utilizing a decision tree that analyzed whether the hospital's proposed budget fell within the Board's NPR/FPP growth guidance, and if above the benchmark, considered modification, evaluating and weighing: the reasonableness of budget assumptions, how each expense factor compares with reference range, how expense growth compares with peers, how the request compares to Medicare market basket and wage growth, other factors and criteria set out in guidance, and factors, criteria and principles set in statute. *See* FY24 Guidance, 6-10; *see also* FY24 Hospital Deliberations, Staff Presentation, Slide 17 (Sept. 6, 2023). The GMCB's deliberation for each hospital's budget was summarized by staff in a decision tree, which was included in staff's public presentation for hospital budget deliberations:



FY24 Hospital Budget Deliberations, GMCB Staff Presentation, 17 (Sept. 6, 2023).

The University of Vermont Health Network (UVMHN) filed the Porter Hospital (Porter) FY24 budget submission by July 1, 2023. Porter requested a 28.4% increase in its NPR/FPP from its FY22 actual results (combined FY23 and FY24) and a 5.0% overall change in charge from FY23. UVMHN Narrative on behalf of Porter, 17 (Porter Submission); Porter Submission, Email from UVMHN to GMCB Director of Health Systems Finance. Porter's FY24 NPR/FPP increase, measured from FY22 actual, is significantly over the 8.6% NPR/FPP growth guidance established by the Board.

UVMHN and Porter's senior leadership met with the Board to review and discuss its FY24 budget at a public hearing held August 23, 2023. On September 15, 2023, following GMCB staff presentations and deliberation, the Board approved Porter's budget with

modifications, with an increase in NPR/FPP for FY24 of not more than 28.4% over its FY22 actual results, and a charge increase of not more than 3.1%.

Based on the above, the Board issues the following Findings, Conclusions, and Order:

FINDINGS

1. Porter is a critical access hospital with its primary location in Middlebury, Vermont. The UVMHN hospitals, including Porter, make up more than 60% of budgeted NPR for Vermont hospitals for FY24.

2. UVMHN submitted Porter's FY24 budget by July 1, 2023. Porter requested a 28.4% growth in NPR/FPP from its FY22 actual results, for a total of $126,746,707. *See* Porter Submission, Income Statement, 1. Porter's requested NPR/FPP growth was the highest of all hospitals in Vermont.

3. Porter submitted its FY24 budget with a requested average overall charge increase of 5% from FY23. *See* Porter Submission, Email from UVMHN to GMCB Director of Health Systems Finance. Porter's charge increase results in an approximately 6.9% increase in commercial rates. *See* Porter Submission, Narrative, 17. The range of commercial rate increases from FY23 to FY24 proposed by all Vermont hospitals was 1.1% to 13.5%. *See* Overview of FY24 Hospital Budgets, Staff Presentation (Aug. 9. 2023), 21.

   The breakdown of that FY22 actual to FY24 budget in NPR is:

	Volume	Rates to Cover Cost Inflation	All Other	Total
	Access Improvement, Population Growth & Aging	Medicare, Medicaid & Commercial	Payer Mix, Bad Debt & Charity	
UVMMC	8.1%	15.6%	0.1%	23.8%
CVMC	8.1%	12.6%	0.7%	21.4%
PMC	6.0%	13.8%	8.6%	28.4%

   Porter Submission, Narrative, 18.

4. The Medicare market basket for the cost of inpatient hospital services, which is a metric used by Medicare and is a way of measuring medical inflation, is projected as a 3.1% increase (from FY23 to FY24 based on a fiscal year starting October 1). *See* Centers for Medicare and Medicaid, Actual Regulation Market Basket Updates. Over two years, the increase would be 7%. *See id*. This does not include any productivity adjustments that CMS may use.

5. Vermont median income is projected to grow 3.9% from FY23 to FY24, and 8.6% from FY22 to FY24. *See* U.S. Census Bureau, Income in the United States: 2022 (Median Household Income for 2021-2022); *see also* Moody's Analytics forecast (2023-2029).

6. Porter's submitted operating expense growth for FY23 was 7.9%, and its operating expense growth for FY22-FY24 was 17.8%, which is larger than Porter's other submitted operating expense growth since FY18. A summary of Porter's history of budgeted and approved NPR increases, changes in charge, operating expenses and commercial NPR is below:

Budgets								
Year		**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**	**FY22-24**
Net Patient Revenue (NPR)	**Guidance**	3.0%	2.8%	3.5%	3.5%	3.5%	8.6%	
	Submitted	3.4%	6.8%	3.5%	2.7%	4.9%	10.9%	28.4%
	Δ Approved	0.6%	0.0%	0.0%	0.0%	0.0%	0.0%	
Commercial NPR	**Submitted**	1.7%	8.5%	1.3%	1.0%	0.0%	4.5%	25.8%
	Δ Approved	-0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	
Operating Expenses	**Submitted**	4.8%	6.3%	4.7%	2.3%	3.1%	7.9%	17.8%
	Δ Approved	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
Change in Charge	**Submitted**	3.0%	2.8%	2.6%	5.8%	5.9%	11.5%	*5.0% CER: 6.9%**
	Δ Approved	0.0%	0.0%	0.0%	-1.8%	-1.9%	0.0%	
	Commercial weight of approved increase	1.3%	1.2%	1.1%	1.6%	1.6%	4.6%	*2.0%**

*As submitted; CER = Commercial Effective Rate

Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 1.

7. A summary of changes in Porter's actual NPR, operating expenses and commercial NPR is below:

Actuals							
Year		**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**
NPR	%	3.0%	2.8%	2.6%	5.8%	5.9%	18.6%
	$ in M	2.1	4.6	-7.5	14.0	7.2	18.3
Commercial NPR	%	0.0%	0.0%	0.0%	-1.8%	-1.9%	23.2%
	$ in M	-0.5	2.1	-5.4	5.6	0.5	10.0
Operating Expenses	%	1.3%	1.2%	1.1%	1.6%	1.6%	8.3%
	$ in M	2.4	5.4	-0.5	5.4	10.4	8.5

Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 1.

8. Porter's FY24 budget includes total operating expenses of $120,242,920, an increase of approximately $18.2 million, or 17.8%, from actual FY22. Porter Submission, Income Statement, 1. Porter's budgeted FY24 operating expenses are approximately $17.5 million more than its budgeted FY23 operating expenses, which represents a 17% increase. *See id.*

9. Porter's operating expense growth is outpacing inflation, measured over two years using the Medicare market basket for the cost of inpatient hospital services and the median growth of operating expenditures at Vermont hospitals:

(millions)	OpEx (FY24 Budget)	OpEx (2yr @ 7%)	OpEx (Median)	Budget vs. Inflation ($)	Budget vs. Inflation (%)	Budget vs. Median ($)	Budget vs. Median (%)
UVMHN (VT Hospitals)	$2,560.1	$2,386.7	$2,414.2	$173.3	107%	$145.9	106%
Porter	$120.2	$109.2	$110.4	$11.1	110%	$9.8	109%
CVMC	$308.1	$299.8	$303.3	$8.3	103%	$4.8	102%
UVMMC	$2,131.7	$1,977.7	$2,000.5	$153.9	108%	$131.2	107%

FY24 Hospital Budget Deliberations, Staff Presentation (Sept. 13, 2023), 16.

10. Porter's budgeted NPR for FY23 is $104,464,068, and its projected NPR for FY23 in its budget submission is $117,048,223. *See* Porter Submission, Income Statement 1. Porter projected $12.6 million NPR over budget for FY23, which results in the NPR increase from projected FY23 to budgeted FY24 of $9.7 million, or an 8.2% growth in NPR in one year. *See id*.

11. Porter's labor related expenses increased approximately 1.2% on average per FTE from FY22 to budgeted FY24. *See* Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 2. Additionally, Porter reported a labor expense inflation factor of 3.9% from FY22-FY24. *See* Porter Submission, Narrative, 20.

12. The benchmark for labor expenses utilized by the Board is 5.2%, from the US Bureau of Labor Statistics' Employment Cost Index for the current dollar index for total compensation in the private industry for all workers in hospitals. *See* FY24 Guidance, 7. The median for Vermont hospitals is 4%.

13. Porter included assumptions for a 5.8% utilization increase from FY22 to FY24 budget. *See* Porter Submission, Exhibit 10; Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 2.

14. The benchmark for utilization referred to by the Board is -0.4%, as described in the FY24 Guidance. *See* FY24 Guidance, 7. The median for Vermont hospitals is 7%.

15. The GMCB required hospitals to file wait times information related to their referral lag (the percentage of appointments scheduled within 3 business days of referral) and visit lag (the percentage of new patient appointments scheduled for the patient to be seen within 2 weeks, 1 month, 3 months, and 6 months of their scheduling date) for primary and specialty care practices and five most frequent imaging procedures. *See* FY24 Guidance, 12. UVMHN submitted wait times information for each hospital. *See* UVMMC Submission, Narrative, 31-34.[12] The GMCB reviewed wait times information submitted for FY24 and for prior years.

[12] Referral lag information is available here: https://uvmhealthststg.wpengine.com/wp-content/uploads/2023/06/GMCB-Submission-Access-Data_Referral-Wait-Times.pdf. Visit lag information is

16. In follow-up questions, the GMCB asked: "What measures of provider productivity are you able to share per clinical ambulatory FTE? What are their affiliated benchmarks and how are those benchmarks derived?" UVMHN responded: "We budget for and track total clinical FTE, which includes effort spent in multiple clinical settings, including ambulatory, eConsults, procedures, inpatient, and call coverage, among others. We do not separately track clinical effort spent solely in the ambulatory setting. We track productivity as measured by work RVUs, a unit of measure determined by CMS, and use specialty benchmark data per FTE for comparison. Those benchmarks are generated from data submitted by health care organizations across the country." *See* UVMHN Responses, GMCB budget hearing – follow up questions (Sept. 5, 2023), 2-3. The GMCB had previously asked: "What are the clinical FTEs visit counts by month for UVMMC, CVMC and Porter by specialty for 2021, 2022, and 2023 YTD? What are the corresponding annual benchmarks (the 25th, 50th and 75th percentile and what is the benchmarking source)?" UVMHN had responded: "Please see attached files. Benchmarks: Historically we utilized MGMA and no longer subscribe to that database. We do utilize both Sullivan Cotter and Vizient for benchmarking data, and neither have this benchmark." *See* UVMHN Responses, GMCB questions ahead of UVMHN FY24 budget hearing (Aug. 22, 2023), 4.[13]

17. Based on an analysis provided by the GMCB during the hearing of UVMHN's productivity information in its budget submission, several clinical practice areas see less than 10, and in some cases 5 or fewer, patients per clinical FTE per day. *See* Statements of Board Member Murman, Hearing Transcript (Aug. 23, 2023), 81:7-83:4. UVMHN said it would provide follow up related to that analysis. *See id*.

18. Porter's budgeted cost inflation for FY22 to FY24 was 3.7%, defined in FY24 Guidance as increases in costs associated with price changes for medical supplies and materials. *See* Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 2.

19. The benchmark for cost inflation utilized by the Board is 5.8%, from the Producer Price Index for general medical and surgical hospitals to assess the relative growth in expenses associated with supplies and materials. *See* FY24 Guidance, 8. The median for Vermont hospitals is 3.7%.

20. Porter's total cost inflation is 3.2%, which is described in its submission as volume and price growth associated with labor and pharmaceuticals as well as inflationary factors applied to current and planned spending on medical/surgical supplies, purchased services, software and maintenance, contracts, leases, utilizes, and insurance. *See* Porter Submission, Narrative, 17.

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available here: https://uvmhealthststg.wpengine.com/wp-content/uploads/2023/06/GMCB-Submission-Access-Data_NPV-Scheduled-Within-1.pdf.

[13] The attachments are available at: https://gmcboard.vermont.gov/sites/gmcb/files/documents/UVMHN_GMCB_UVMMC%20Arrived%20Visits%20%20cFTE.pdf and https://gmcboard.vermont.gov/sites/gmcb/files/documents/UVMHN_GMCB_CVMC%20PMC%20Arrived%20Visits%20%20cFTE.pdf

21. In terms of pharmaceutical costs, Porter's pharmaceutical expense growth from FY22 to FY24 is 15.3%. *See* Porter Submission, Narrative, 21. *See* Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 2.

22. The benchmark for pharmaceutical expense inflation utilized by the Board is 12%, from the Producer Price Index's commodity index for prescription drugs. *See* FY24 Guidance, 7. The median for Vermont hospitals is 7.6%.

23. Porter's ratio of administrative and general salaries to clinical salaries was 13.6%. *See* Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 3. Compared to the peer group of the critical access hospitals, that ratio is between the 25th and 75th percentile marks of 11% and of 22%. *See id*.

24. Prior to its hospitals' budget hearings, UVMHN argued that the ratio of administrative and general salaries to clinical salaries for UVMMC was misleading because "it includes all UVMHN shared services salaries that run through the UVMMC General Ledger in the administrative and general category." *See* Letter from Rick Vincent to Green Mountain Care Board, (Aug. 17, 2023), 2. The letter calculated a different ratio for UVMMC, but not for CVMC or Porter Hospital. *See id*.

25. Using UVMHN's adjusted calculations, Porter's ratio of administrative and general salaries to clinical salaries increased to 29.25%, which exceeds the 75th percentile for its peer group, as summarized in the following table (the comparison group of critical access hospitals did not have any adjustments to the method of calculating the ratio):

Ratio of Administrative & General Salaries to Clinical Salaries (Critical Access Hospitals)

Hospital	VT Hospital Rank	Hospital Percent Rank[1]	Comparator 25th Percentile	Comparator 75th Percentile
29.25%*	11	8th	11%	22%

*Adjusted from 13.6% per letter received Sept 5, 2023

Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 3.

26. In responses to follow up questions from GMCB, UVMHN presented a recalculation of its network hospitals' ratio of administrative and general salaries to clinical salaries based on adjustments and reclassifications of salary expenses it makes in its Medicare cost reports. *See* UVMHN Responses, GMCB budget hearing – follow-up questions (Sept. 5, 2023), 4-6.

27. Using benchmarking data provided by UVMHN, GMCB staff analyzed the UVMHN hospitals' shared services spending compared to the median of the provided data and compared to two-year inflation measured by the Medicare market basket for the cost of inpatient hospital services:

Shared Administrative Services - VT Share per GPR (84.6%)							
millions	FY24 Budget	Median (OpEx @ FY24 Budget)	Diff $	Diff %	Median (OpEx @ 2YR Inflation)	Diff $	Diff %
UVMHN	$352.12	$325.13	**$26.99**	**8.3%**	$303.12	**$49.00**	**16.2%**
UVMMC	$287.24	$265.22	$22.02		$247.26	$39.97	
CVMC	$45.24	$41.77	$3.47		$38.94	$6.30	
Porter	$19.64	$18.14	$1.51		$16.91	$2.73	

Shared Administrative Services - VT Share per FY22 Medicare Cost Reports (77.6%)							
millions	FY24 Budget	Median (OpEx @ FY24 Budget)	Diff $	Diff %	Median (OpEx @ 2YR Inflation)	Diff $	Diff %
UVMHN	$322.98	$325.13	**($2.14)**	**(0.7%)**	$303.12	**$19.87**	**6.6%**
UVMMC	$263.47	$265.22	($1.75)		$247.26	$16.21	
CVMC	$41.50	$41.77	($0.28)		$38.94	$2.55	
Porter	$18.02	$18.14	($0.12)		$16.91	$1.11	

FY24 Hospital Budget Deliberations, Staff Presentation (Sept. 13, 2023), 17.

28. Additional review of the UVMHN shared service spending compared to benchmarks provided by UVHMN showed that the UVMHN hospitals spend between approximately 1.7 times and 3.96 times the median on administrative areas, including human resources, information technology, and revenue cycle:

Admin Services (*millions*)	Shared Admin (UVMHN Total)	Shared Admin (VT Share)	Median (%)	Median ($)	VT Share vs. Median ($)	VT Percentile	VT Share vs. Median (%)	VT Share X of Median
UVMHN (Vermont Share)			77.6%					
Fiscal Services	$24.1	$18.7	0.68%	$17.4	$1.3	0.73%	7%	1.07
Human Resources	$30.6	$23.8	0.47%	$12.0	$11.7	0.93%	98%	**1.98**
Information Technology	$155.6	$120.8	2.77%	$70.9	$49.9	4.72%	70%	**1.70**
Revenue Cycle	$82.4	$63.9	0.63%	$16.1	$47.8	2.50%	296%	**3.96**
Supply Chain	$21.4	$16.6	0.59%	$15.1	$1.5	0.65%	10%	1.10
SASO Subtotal	**$314.1**	**$243.7**	**5.14%**	**$131.6**	**$112.1**	**9.52%**	**85%**	**1.85**

FY24 Hospital Budget Deliberations, Staff Presentation (Sept. 13, 2023), 18.

29. The amount of excess expenditure over the median for administrative services could reach approximately $6.26 million for Porter, $91.48 million for UVMMC, and $14.41 million for CVMC. *See* FY24 Hospital Budget Deliberations, Staff Presentation (Sept. 13, 2023), 19.

30. Porter's CMI-adjusted average cost per Medicare discharge is in the following table (compared to critical access hospitals):

CMI-Adjusted Average Cost per Medicare Discharge (Critical Access Hospitals)

Hospital	VT Hospital Rank	Hospital Percent Rank[2]	Comparator 25th Percentile	Comparator 75th Percentile
$12,075	7	42nd	$9,745	$13,647

Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 3.

31. On August 17, 2023, UVMHN sent a letter to the GMCB stating, among other things, that UVMHN had started using an "AI enabled data mining tool that highlights CMI opportunities by correlating multiple pieces of data in our EHR." *See* Letter from Rick Vincent to GMCB (Aug. 17, 2023), 3-4 (UVMHN Aug. 17 Letter). UVMHN asserted that with "a more accurate CMI" the CMI-adjusted average cost per Medicare discharge would be lower. *See id*. UVMHN provided a recalculation of CMI-adjusted average cost per Medicare discharge for UVMMC and CVMC that used the same average cost for Medicare discharge adjusted by a higher CMI. *See id*. During the UVMHN hospital budget hearings, UVMHN testified that its assessment of its CMI projection was based in part on a third-party assessment and comparison to benchmarks the hospital procured, and that those benchmarks and assessments could be provided to the GMCB. *See* Testimony of Rick Vincent, Hearing Transcript (Aug. 23, 2023), 96:22-98:3.

32. UVMHN testified that the impact on billing of an increased CMI is "primarily Medicare, but the acuity of the patients do for some small portions of the other payers. It does impact payment there as well." *See* Testimony of Rick Vincent, Hearing Transcript (Aug. 23, 2023), 91:23-92:4. UVMHN also testified, in reference to a goal of having CMI increase to 2.3, that "we're stretching ourselves to get to this number, which we haven't done in past years. And this is allowing us to lower our ask for our commercial rates, right? So I think it's great that you're holding us accountable. We want to reach this number." *See* Testimony of Dr. Sunil Eappen, Hearing Transcript (Aug. 23, 2023), 106:6-106:11. UVMHN further testified that "certainly, if we do better in this area, we – there's opportunity to continue to have that impact, the commercial rate." *See* Testimony of Rick Vincent, Hearing Transcript (Aug. 23, 2023), 201:14-109:6.

33. In response to follow up questions from the GMCB regarding the impacts of UVMHN's CMI improvement efforts, UVMHN stated: "With UVMHN appropriately capturing diagnosis codes to reflect accurate patient severity, it will impact commercial payers that reimburse on a DRG basis. The high level estimate, which will not all be realized in FY24, could be in the $10M per year range." *See* UVMHN Responses to Additional Follow-up Questions from GMCB (Sept. 8, 2023).

34. BlueCross BlueShield of Vermont (BCBSVT) submitted a public comment to the GMCB regarding the impact of CMI increases at UVMMC. *See* Letter from Sara Teachout to GMCB (Aug. 31, 2023), 1 (BCBSVT Aug. 31 Letter). BCBSVT stated: "We estimate that for every 0.01 increase in the average CMI at UVMMC for Blue Cross VT members, payments will increase by approximately 0.7%. During their hospital budget hearing, UVMMC discussed a DRG optimization program to increase their average CMI from 2.061 to 2.3. At our current negotiated rates and without any other changes, a corresponding

increase in CMI for our members would result in approximately $11 million of higher payments to the hospital. This amount will increase by the same percentage the GMCB approves in their budget order for 2024." *Id*.

35. In response to a GMCB follow up request to "[i]dentify the commercial payers that may be impacted by your CMI improvement efforts," UVMHN responded: "Any of our payers that reimburse on a DRG basis may be impacted by our CMI improvement efforts. Reimbursement terms are subject to confidentiality under the terms of our provider participation agreements." *See* UVMHN Responses, Additional follow-up questions from GMCB (Sept. 8, 2023), 1. In response to a GMCB follow up request to provide assessments associated with UVMHN CMI results, including benchmarks, UVMHN responded: "The outside entities that perform our assessments do so on the basis that they remain confidential, for internal use only, and cannot be disclosed. In the calculations below, we have nonetheless summarized those findings and the potential financial impacts in an effort to demonstrate how we derived our projections." *See* UVMHN Responses, Additional follow-up questions from GMCB (Sept. 5, 2023), 3.

36. Porter's relative inpatient and outpatient commercial costs per discharge, cost coverage, and standardized prices are summarized in the following table (in each case compared to other critical access, not major teaching hospitals):

Inpatient – Relative Cost and Price (Critical Access Hospital, not major teaching hospital)						
Year		FY18	FY19	FY20	FY21	FY22
Commercial Cost per Discharge	Hospital	$11,624	$11,189	$13,074	$9,799	$12,248
	25th percentile	$11,349	$11,030	$12,737	$11,914	$11,865
	75th percentile	$16,115	$19,154	$20,538	$17,412	$16,365
Commercial Cost Coverage	Hospital	102%	93%	80%	106%	92%
	25th percentile	94%	80%	74%	72%	84%
	75th percentile	111%	100%	92%	97%	112%
Standardized Price	Hospital		$18,609			
	25th percentile		$13,391			
	75th percentile		$22,644			

Outpatient – Relative Cost and Price (Critical Access Hospital, not major teaching hospital)						
Year		FY18	FY19	FY20	FY21	FY22
Commercial Cost per Discharge	Hospital	$431	$440	$520	$520	$616
	25th percentile	$426	$423	$470	$471	$498
	75th percentile	$495	$472	$601	$616	$628
Commercial Cost Coverage	Hospital	203%	175%	155%	163%	150%
	25th percentile	200%	171%	150%	163%	170%
	75th percentile	226%	202%	191%	193%	202%
Standardized Price	Hospital		$314			
	25th percentile		$259			
	75th percentile		$420			

Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 4.

37. Commercial cost per discharge, commercial cost coverage, and standardized price data is from analysis produced by Burns and Associates[14] to review cost and reimbursement variation among Vermont hospitals. *See* FY24 Guidance, 8-9. The analysis includes a review of the variation in Medicare-allowable costs, payments, and cost coverage for commercial payers. *See id*.

38. Porter's FY24 budget included reimbursement changes from Medicaid for a 7.2% rate increase for professional services and no change for inpatient rates or outpatient rates. *See* Porter Submission, Narrative, 28. Porter's FY24 budget included reimbursement changes from Medicare for a 5.0% rate increase for inpatient rates, a 1.5% increase for professional rates, and a 0.5% increase for outpatient rates. *See id*.

39. Porter included an analysis with a methodology showing how its change in charge is less than its total change in rates in an amount equal to increases in Medicaid and Medicare, at the time of its budget submission, and changes in bad debt and charity care. *See* Porter Submission, Narrative, 26.

40. For FY24, Porter budgeted an operating margin of $ 10,250,019, or approximately 7.85%, and a total margin of 9.07%. Porter Submission, Income Statement, 1. Porter budgeted the second highest operating margin among Vermont hospitals; the median budgeted operating margin for Vermont hospitals for FY24 was 1.25%. *See* Overview of FY24 Hospital Budgets, Staff Presentation (Aug. 9. 2023), 22. Porter projects an 8.75% operating margin and an 11.73% total margin in FY23, more than its budgeted operating margin of 5.67% and budgeted total margin of 6.17% for FY23. Porter Submission, Income Statement, 1. For FY23, Porter projects an operating margin of $10.6 million, which is $4.4 million more than the hospital budgeted for FY23. *See id*. For FY23, Porter projects a total margin of $14.2 million, which is $7.5 million more than the hospital budgeted. *See id*. For FY22, Porter had an operating margin of 3.07% and a -1.57% total margin. *Id*.

41. UVMHN's budget (for all network hospitals) anticipates 132.7 days cash on hand in FY24. Porter Submission, Narrative, 27. The median days cash on hand for all Vermont hospitals budgeted for FY24 is 109.64. *See* Overview of FY24 Hospital Budgets, Staff Presentation (Aug. 9. 2023), 18.

42. A summary of Porter's financial indicators is included below:

[14] A presentation of the Burns and Associates analysis is available here: https://gmcboard.vermont.gov/sites/gmcb/files/documents/BoardPres_HMA_ExaminationofPaymentandCostCoverageVariationAcrossPayersforHospitalServices_20211027.pdf.

Financial Indicators

	Porter Medical Center				Vermont Hospitals
	FY22 Actual	FY23 Approved	FY23 YTD	FY24 Submitted	FY24 Median
Op Margin	3.1%	5.7%	8.8%	7.9%	1.2%
Op-EBIDA Margin	6%	8%	11%	10%	5.6%
Total Margin	-1.6%	6.1%	11.4%	9.0%	3.8%
DCOH	120.0	169.9	101.5	117.8	109.64
Debt Service Coverage Ratio	7.5	10.8	15.8	15.4	4.56
LT Debt to Capitalization Ratio	14.3%	13.9%	15.4%	11.1%	0.17
Age of Plant	15.8	19.3	4.3	5.9	16.02

Summary for GMCB Deliberations for Porter, GMCB Staff Presentation (Sept. 15, 2023), 2.

43. Porter's income statement reflects a Gain from Sale of Investments projected for FY23 of $3,609,263. *See* Porter Submission, Income Statement, 1. The hospital had budgeted $573,766 for that amount for FY23. *See id*. With respect to UVMMC, the hospital disputes the characterization as a "gain from sale of investments" and states that "[i]n actuality, $10M of the $61M is the actual gain on the sale of our investments; the remaining $51M is unrealized gain on our investments." *See* UVMHN Letter (Sept. 5, 2023), 2.

44. UVMHN testified that "We're currently about 90 million dollars over budget for cost inflation for FY23." *See* Testimony of Dr. Sunil Eappen, Hearing Transcript (Aug. 23, 2023), 9:24-9:25.

45. For 2024, Porter plans to be a participating provider with OneCare Vermont's commercial, Medicare, and Medicaid programs. *See* UVMHN responses, GMCB staff analysis questions (Aug. 1, 2023), 10-11.

46. During a confidential executive session during its budget hearing on August 23, 2023, which was attended by the GMCB and the Office of the Health Care Advocate, Porter presented a cost-reduction contingency plan.

47. UVMHN stated in its submission that "budgeted net patient revenue (NPR) and commercial rate must go hand in hand with consideration of Vermonters' access to health care services," and that its budget "contains the financial support necessary to continue these needed tertiary and quaternary services to the region." *See* Porter Submission, Narrative, 2, 3.

48. UVMHN executives have publicly stated that the expansion of the network should be judged by increased value, and that expansion would not increase prices or harm consumers. *See* Hearing Transcript, Statements of Chair Foster (Aug. 23, 2023), 314:19-315:10 (quoting from VTDigger, Fletcher Allen becomes University of Vermont Medical Center (Nov. 12, 2014)), ("Any new affiliations must bring greater value to people in the community and the network, [former UVMHN CEO] said, and will be scrutinized through that lens. Expansion will not hurt consumers, [former UVMHN CEO] added" and "'What consumers can expect is that we will always have the affordability of health care at the forefront of all of our

strategies," [former UVMHN CEO] said, "We clearly get that affordability potentially can be a barrier to access to care."); *see also* Stephen Leffler and Allie Stickney, UVM network preserves access, keeps prices down, VTDigger Commentary (Dec. 8, 2019) ("Has the formation of the UVM Health Network caused prices to go up? The answer is a resounding no…"); VTDigger, UVM Health Network at the center of health industry consolidation debate (Aug. 25, 2015) ("[T]he UVM Health Network CEO, said he doesn't believe that care is more expensive at hospital-owned practices, and maintains that the efficiencies his network is creating will eventually reduce costs to consumers."); VTDigger, Regulators question growth of UVM Health Network (Apr. 6, 2017) ("It's putting this infrastructure in place, which will deliver the efficiencies," [former CFO for UVMHN] said. "Automation in the administrative areas is really the driver of efficiency.")

49. The GMCB solicited and considered public comment on all aspects of hospital costs and use, and on the budget proposed by Porter, through a special comment period and public comment periods during the GMCB's hospital hearings and deliberations.

50. Public comments included, among many other topics, the "downstream negative effects that multiple years of increases in commercial insurance rates, and hospital budgets have had on high value community providers." *See* Statement of Susan Ridzon, Hearing Transcript (Sept. 13, 2023), 71:2-72:6. "[C]ommunity providers have had to face many of the same headwinds as the hospitals. But because they have little to no negotiating power with public and private payers, they're unable to increase their already comparatively, much lower reimbursement rates to cover the ever increasing costs." *See id*.

CONCLUSIONS

Porter's FY22 actual to FY24 budgeted NPR growth of 28.4% exceeded the Board's NPR growth guidance of 8.6%. *See* Findings, ¶2. As Porter's NPR growth exceeded the benchmark, we review Porter's budget to determine whether it has met its burden to justify the request. Based on our review of the record, including information presented by the hospital in its budget submission, hearing, and follow up questions, and other information provided to the GMCB, we conclude that Porter has not met its burden of persuasion to justify a 5.0% charge increase. For reasons set out in this Order, we approve Porter's 28.4% NPR growth from its actual FY22 results and reduce its charge increase from 5.0% to 3.1%.

First, as a result of responses that were incomplete, did not address the questions asked, or did not provide the required information, Porter failed to provide the GMCB with information critical to support aspects of Porter's budget submission, including its requested change in charge. Several important instances of this are highlighted in this Order. Second, in several critical respects Porter's representations to support aspects of its budget submission were not credible, as further described throughout this Order. Given time and resource constraints, the Board is unable to evaluate and ensure each representation by a hospital is accurate and reliable. Nor should such an effort be necessary as GMCB expects and relies on regulated entities to provide candid, accurate, and straight responses to Board questions and requests for information.

When regulated entities make one-sided and self-serving adjustments while failing to make necessary corresponding adjustments, it degrades the credibility of the hospital's entire submission. GMCB review of UVMHN's budget submission and responses found a number of instances where UVMHN's assertions were not sufficiently supported and/or were simply not credible. Porter's efforts to request a large rate increase were undercut by failures to provide the Board with critical information, use of data as both a sword and shield, and unreliable responses to Board questions.

Additionally, we note that UVMHN's narrative provided limited responses specific to Porter and that hospital's particular situation and operations. While the UVMHN submission included financials and other metrics for Porter, which we have reviewed and utilized in our budget approval for Porter, UVMHN's narrative responses focused on UVMHN at the network level and UVMMC rather than Porter. Anything in this Order that more generally pertains to UVMHN than Porter specifically is a result of the submission's lack of clear focus on Porter. The burden is on the hospital to justify its proposed budget. GMCB Rule 3.000, §3.06(a). As many aspects of the budget submission and responses were provided by UVMHN and applicable to all of its Vermont network hospitals, many of our conclusions with respect to that information are the same for Porter as they are for other UVMHN hospitals.

In terms of the expense growth indicators set in the FY24 Guidance, Porter's FY22 to FY24 per FTE labor expense growth of 1.2% was under the median for Vermont hospitals and below the GMCB's benchmark of 5.2%. *See* Findings, ¶¶ 11, 12. Porter's utilization assumption was a 5.8% increase, which was below the median for Vermont hospitals. *See* Findings, ¶¶ 13, 14. Porter's pharmaceutical expense growth factor was 15.8%, which was above the GMCB benchmark. *See* Findings, ¶¶ 21, 22. Additionally, its cost inflation was 3.7%, which was under the FY24 Guidance benchmark and at the median for Vermont hospitals. *See* Findings, ¶¶ 18, 19.

The GMCB is responsible for establishing budgets that promote efficient and economic operation of the hospital. *See* 18 V.S.A. § 9456(c)(3). The FY24 Guidance also included productivity and efficiency indicators, financial indicators, and commercial price changes as factors the GMCB may consider. See FY24 Guidance, 9-10. Porter's approved budgeted operating expense growth was around 7.9% for FY23. *See* Findings, ¶6. From FY22 actual to its FY24 budget, Porter's operating expenses grew approximately $18.2 million, or 17.8%. *See* Findings, ¶8. The hospital's operating expense growth from FY23 budget to FY24 budget is approximately $17.5 million, which is a 17% increase. *See* Findings, ¶8. Porter's operating expenses grew at a rate above medical inflation for FY22-FY24. *See* Findings, ¶¶4, 8. Despite the growth in operating expenditures, Porter did not present convincing evidence of a reduction in wait times that may have justified some increase in operating expenses. *See* Findings, ¶¶15, 16. This operating expense growth is significant, and continuation of growth at this rate is inconsistent with the GMCB's mandate of reducing the per-capita rate of growth in expenditures for health services in Vermont. 18 V.S.A. § 9372(2).

Looking more closely at Porter's operating expense growth, we find several indicators of inefficiency. The hospital's ratio of administrative and general salaries to clinical salaries is above the 75th percentile of its peer group. *See* Findings, ¶¶23-25. Prior to its budget hearing,

UVMHN argued that UVMMC's ratio of administrative and general salaries to clinical salaries was inaccurate and "misleading" because "it includes all of UVMHN shared services salaries that run through the UVMMC General Ledger in the administrative and general category." *See* Findings, ¶24. UVMHN "adjusted" the calculations and concluded that the "accurate reflection of the UVMMC ratio of administrative salaries to clinical salaries is 24.4%, which is in the benchmark range." *Id.* While UVMHN affirmatively adjusted UVMMC's calculations downward, it notably *did not* add in those expenses subtracted from UVMMC to CVMC's and Porter's administrative costs. It was only in response to Board questioning that UVMHN acknowledged that subtracting those costs from UVMMC would translate to an increase in the ratio of administrative and general salaries to clinical salaries for the other UVMHN hospitals, CVMC and Porter. *See* Findings, ¶¶24-26. After specific Board follow up, UVMHN acknowledged that its adjustments to UVMMC would mean that Porter's administrative costs would jump from 13.58% to 29.25%, and CVMC's would increase from 20.77% to 30.91%. *See* Findings, ¶¶24-26. In addition to the ratio of administrative and general salaries to clinical salaries, an analysis of UVMHN's administrative expenses compared to benchmarks UVMHN provided showed the hospital spending above the median on administrative services, and between 1.7 times and 3.96 times the median in the areas of human resources, information technology, and revenue cycle. *See* Findings, ¶¶27-29.

Porter's CMI-adjusted cost per Medicare discharge at $12,075 is at the 58th percentile for its peer group. *See* Findings, ¶30. The hospital's standardized commercial price for inpatient services, at $18,609, was at the 54th percentile and outpatient services, at $314, was at the 43rd percentile of its peer group. *See* Findings, ¶36.

UVMHN represented that a large rate increase was warranted to ensure access and prevent service line cuts. *See* Findings, ¶¶ 46, 47. GMCB takes representations of service-line reductions seriously. UVMHN presented its cost reduction plan confidentially in executive session, and for that reason we do not include details in this order, but we did not find the cost reduction presentation credible because it was conclusory, lacked supporting analysis, and failed to adequately address alternatives, such as reductions in administrative costs, modification of executive compensation, access and utilization improvements, or efficiencies in infrastructure costs. *See* Findings, ¶46.

Furthermore, before a hospital contemplates any reduction in patient services, the Vermonters it serves should expect the hospital to exhaust all other opportunities for cost reduction and other sources for potential revenue. Porter's budget submission does not demonstrate that it has done so. As one example, using data submitted with Porter's budget shows that if all shared administrative spending were at or below the median, it could remove approximately $6.26 million from its budgeted expenditures. *See* Findings, ¶¶27-29. As another example, Porter could reduce its budgeted operating margin, which is close to 8%. *See* Findings, ¶40.

Porter could achieve its submitted NPR/FPP, which we have approved, through any number of sources aside from further burdening Vermont ratepayers with an additional charge increase, including through reducing its expenses, improving its efficiency, or increasing throughput and seeing more patients.

As another example, although UVMHN did not provide requested provider productivity benchmarks, the visit counts it did produce suggest an ability to increase access. *See* Findings, ¶16. Vermonters have struggled for years with challenges accessing care at UVMHN hospitals and there are significant wait times to see specialists at UVMHN hospitals. *See* Findings, ¶15. The Board therefore requested UVMHN to provide clinical FTE visits counts by month and "the corresponding annual benchmarks (the 25th, 50th, and 75th percentile and what is the benchmarking source." *See* Findings, ¶15. The Board additionally asked UVMHN to identify "measures of provider productivity" and for any "affiliated benchmarks" and how "those benchmarks are derived." *See id*. UVMHN, however, failed to support its case for its proposed budget because it did not provide data to the Board that could have shown UVMHN's provider productivity, and did not address how the benchmarks were derived. *See id*. While UVMHN did not provide the benchmarking data, it did produce annualized visit counts. *See id*. A review of that data reflects low visit counts and opportunity to increase access, which would benefit the community by ensuring patients are seen and avoid utilizing commercial rate increases to plug perceived budgetary shortfalls. Without better measures of productivity, the GMCB is left to conclude that UVMHN's patient throughput can be increased to help generate additional revenue needed to cover cost without additional rate increase, while at the same time improving access and reducing wait times.

As another example, UVMHN could realize the financial benefits from the expansion of its network that it has for years represented would accrue to Vermonters by producing efficiencies and economies of scale. *See* Findings, ¶48. For example, UVMHN officials have stated that "Any new affiliations must bring greater value to people in the community in the network and will be scrutinized through that lens. Expansion will not hurt consumers. . . . We clearly get that affordability potentially can be a barrier to access to care." *See id*. Additionally, the former UVMHN CEO stated he "doesn't believe that care is more expensive at hospital-owned practices, and maintains that the efficiencies his network is creating will eventually reduce costs to consumers."). *See id*. Similarly, the former CFO for UVMHN stated that EPIC implementation is "putting this infrastructure in place, which will deliver the efficiencies … Automation in the administrative areas is really the driver of efficiency." *See id*. The CEO of UVMMC and a Chair of the UVMHN Board of Trustees declared in a public opinion piece: "Has formation of the UVM health network caused prices to go up? The answer is a resounding no." *See id*.

While UVMHN leadership has repeatedly represented that expansion of UVMHN would economically benefit Vermonters, it was unable to address that line of inquiry at its hearing. In response to Board follow-up questions, UVMHN did not adequately demonstrate or address specific Board requests for information as to how consolidation has led to "changes in price pre and post consolidation." Moreover, UVMHN hospitals' relatively high CMI-adjusted cost per Medicare discharge, standardized prices, and administrative costs -- coupled with UVMHN's inability to address this specific question -- suggests the efficiencies and consumer cost savings remain outstanding and could be pursued and realized so as to minimize, if not negate, UVMHN's purported need for Vermonters to bear considerable increased expense for services at UVMHN hospitals.

In addition to increased efficiency or reduced costs, Porter could look to other potential revenue opportunities. A few examples include stronger operating and total margins than budgeted for FY23, more than $3 million in unbudgeted investment gains that are characterized as unrecognized but still reflected in UVMHN's financials, or increased volume through improved efficiency. *See* Findings, ¶¶16, 27, 28, 29, 40, 43.

Porter's budgeted margins for FY24, and its budgeted and projected margins for FY23, are high, particularly for a critical access hospital. *See* Findings, ¶40. For FY24, Porter budgeted an operating margin of 7.85% ($10,250,019), and a total margin of 9.07%. *See id.* Porter projects an 8.75% operating margin and an 11.73% total margin in FY23, more than its budgeted operating margin of 5.67% and budgeted total margin of 6.17% for FY23. *See id.* For FY23, Porter projects an operating margin of $10.6 million, which is $4.4 million more than the hospital budgeted, and a total margin of $14.2 million, which is $7.5 million more than the hospital budgeted. *See id.* Porter's budgeted FY24 operating margin was the second highest among all Vermont hospitals, and is significantly more than the median for Vermont hospital of 1.25%. *See id*. Porter did not meet its burden of justifying its charge increase to generate these relatively high budgeted profit margins, particularly as the hospital projected margins for FY23 that exceed its budgeted FY23 margins.

Based on the data available to the Board—and absent an adequate response to Board questions—Porter has not met its burden to justify its 5% charge increase request, and Porter should seek to achieve its approved NPR by improving its efficiency, wait times, and access to care.

Porter submitted a rate for FY24 that brings its two-year change in charge to 8.5% (using Porter's proposed "commercial effective rate" formulation, the increase is 16.5%), which is more than double medical inflation over that time. *See* Findings, ¶¶3-6. It's also more than double Porter's own measure of total cost inflation at 3.2%. *See* Findings, ¶20. Porter's budget submission and record before the Board fail to meet the hospital's burden to justify a proposed rate increase that far exceeds standard references for price increases. Therefore, we approve a charge increase of 3.1%, keeping Porter's charge increase limited to a measure of medical inflation.

Further, the GMCB is responsible for ensuring "[o]verall health care costs must be contained, and growth in health care spending in Vermont must balance the health care needs of the population with the ability to pay for such care." 18 V.S.A. § 9371(2). Year over year charge increases that are driven by inefficiency, high administrative costs, and large operating expense increases that exceed measures of medical inflation and Vermont wage growth are inconsistent with that mandate. *See* Findings, ¶5. Consistently high charge increases for hospitals can also be detrimental to the sustainability of other aspects of our health care system, including lower cost independent providers, on whom many Vermonters depend for access to affordable health care. *See* Findings, ¶¶49, 50.

ORDER

Based on our findings and conclusions and the authority granted by Chapter 221, Subchapter 7 of Title 18, Porter's budget is approved as modified hereby for FY24 subject to the following terms and conditions:

A. Porter's FY24 NPR/FPP budget is approved at a growth rate of not more than 28.4% over its FY22 actual, with a total NPR/FPP of not more than $126,746,707 for FY24.

B. Porter's overall change in charge and commercial rate increases are approved at not more than 3.1% over current approved levels, with no commercial rate increase for any payer at more than 3.1% over current approved levels. The commercial rate increase overall or with respect to any payer may be less than 3.1% as negotiated between the hospital and payer.

C. The commercial rate increase cap in Paragraph B. is a maximum and is subject to negotiation between Porter and commercial insurers. Porter shall not represent the maximum commercial rate increase approved by the GMCB in Paragraph B. or the expected commercial NPR based on that rate increase as the amounts set or guaranteed by the GMCB in the hospital's negotiations with insurers.

D. Porter's expected commercial NPR, based on its budget as adjusted in this Order, is $47,834,438. Porter shall report its actual expected commercial NPR not later than March 15 or such later date as specified by the Board Chair and explain any variations from the expected commercial NPR.

E. Porter shall submit to the Board within 3 months a plan addressing Porter's efforts to reduce costs and control overall expense growth in connection with, among other things, information technology, human resources, management, and revenue cycle management. Further, Porter is required to meet monthly with Board staff for monitoring purposes.

F. Beginning on or before November 20, 2023, and every month thereafter, Porter shall file with the Board the actual year-to-date FY24 operating results as of the end of the prior month. The report shall be in a form and manner as prescribed by GMCB staff.

G. Porter shall file with the Board its actual year-to-date FY24 operating results on April 30, 2024 for October 1, 2023 through March 31, 2024. The report shall be in a form and manner as prescribed by GMCB staff.

H. On or before January 31, 2024, Porter shall file with the Board, in a form and manner prescribed by GMCB staff, such information as the Board determines necessary to review the hospital's FY23 actual operating results.

I. Porter shall file with the Board one copy of its FY23 audited financial statements and associated management letter(s), as well as the parent organization's audited consolidated financial statements, if applicable, 15 days after the hospital receives its statements, or by January 31, 2024, whichever is earlier.

J. Porter shall participate in telephonic check-ins to be scheduled at the discretion of the Board Chair in consultation with Board staff based on the hospital's FY24 year-to-date operating performance.

K. Porter shall advise the Board of any material changes to its FY24 budgeted revenues and expenses, or to the assumptions used in determining its budget, including:

    A. changes in Medicaid, Medicare, or commercial reimbursement;

    B. additions or reductions in programs or services to patients; and

    C. any other event that could materially change the approved NPR/FPP budget.

L. Porter shall develop a system to be able to measure and report to the GMCB the referral lag and the visit lag for each hospital-owned primary and specialty care practice as well as the top five most frequent imaging procedures. Referral lag means the percentage of appointments scheduled within 3 business days of referral (percentage of all referrals where the clinic or hospital has completed scheduling an appointment within 3 business days of receiving the referral, regardless of the date on which the appointment will take place). Visit lag means the percentage of new patient appointments scheduled for the patient to be seen within 2 weeks, 1 month, 3 months, and 6 months of their scheduling date (the scheduling date is the date the hospital or practice schedules the appointment, not the date the referral was received or the date the patient will be seen).

    A. Porter shall report to the GMCB the referral lag and the visit lag for each hospital-owned primary and specialty care practice as well as the top five most frequent imaging procedures on April 30, 2024, for February and March 2024, and as required by the GMCB's FY25 hospital budget guidance.

M. Porter shall participate in the Board's work, including the community engagement process, pursuant to Act 167.

N. Porter shall timely file all forms and information required for practice acquisitions and/or transfers as determined by GMCB staff, if applicable.

O. Porter shall file all requested data and other information in a timely and accurate manner.

P. After notice and an opportunity to be heard, the GMCB may amend the provisions contained herein, and issue an amended order, consistent with its authority as set forth in 18 V.S.A. Chapter 220, Subchapter 1, 18 V.S.A. Chapter 221, Subchapter 7, and GMCB Rule 3.000.

Q. All materials required above shall be provided electronically, unless doing so is not practicable.

R. The findings and orders contained in this decision do not constrain the Board's decisions in future hospital budget reviews, future certificate of need reviews, or any other future regulatory or policy decisions.

So ordered.

Dated: October 1, 2023
Montpelier, Vermont

s/ Owen Foster, Chair	)	
	)	GREEN MOUNTAIN
s/ Jessica Holmes	)	CARE BOARD
	)	OF VERMONT [15]
s/ Robin Lunge	)	
	)	
s/ Thom Walsh	)	

[15] Board Member David Murman abstained from participation in the deliberations and voting on the Porter Hospital FY24 budget.

Filed: October 1, 2023

Attest: */s/ Jean Stetter*
Green Mountain Care Board
Administrative Services Director

NOTICE TO READERS: This document is subject to revision of technical errors. Readers are requested to notify the Board (by email, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made.