

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

FY2024 HOSPITAL BUDGET DECISION AND ORDER

In re: University of Vermont Medical Center) Docket No. 23-004-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.*

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://gmcbboard.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

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

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.

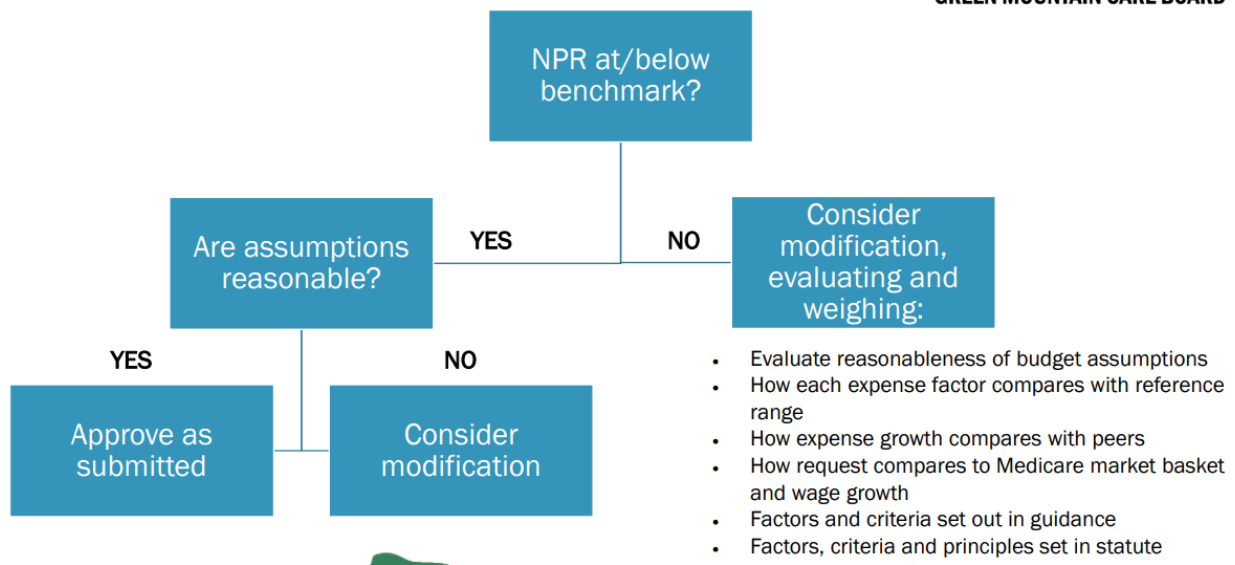
The Board also reviewed each hospital's proposed change in charge, which is the average amount by which a hospital increases its charges.¹¹ The Board collected and reviewed from each hospital its estimated impact on commercial rate payers that would result from the hospital's budgeted change in charge. 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 Decision Tree



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

The University of Vermont Health Network (UVMHN) filed the University of Vermont Medical Center (UVMMC) FY24 budget submission by July 1, 2023. UVMMC requested a 23.8% increase in its NPR/FPP from its FY22 actual results (combined FY23 and FY24) and a 10% overall change in charge from FY23. UVMHN Narrative on behalf of UVMMC, 17 (UVMMC Submission); UVMMC Submission; Email from UVMHN to GMCB Director of Health Systems Finance. UVMMC’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 UVMMC’s senior leadership met with the Board to review and discuss its FY24 budget at a public hearing held August 23, 2023. On September 13, 2023, following GMCB staff presentations and deliberation, the Board approved UVMMC’s budget with

modifications, with an increase in NPR/FPP for FY24 of not more than 23.8% 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. UVMMC is a prospective payment system hospital with its primary location in Burlington, Vermont. UVMMC is Vermont’s largest hospital by revenue and the state’s only tertiary care hospital and academic medical center. The UVMHN hospitals make up more than 60% of budgeted NPR for Vermont hospitals for FY24.
2. UVMHN submitted UVMMC’s FY24 budget by July 1, 2023. UVMMC requested a 23.8% growth in NPR/FPP from its FY22 actual results, for a total of \$1,853,481,226. *See UVMMC Submission, Income Statement, 1.* UVMMC’s requested NPR/FPP growth was the second highest of all hospitals in Vermont, trailing only UVMHN’s Porter Hospital’s 28.40%.
3. UVMMC submitted its FY24 budget with a requested average overall charge increase of 10% from FY23. *See UVMMC Submission, Email from UVMHN to GMCB Director of Health Systems Finance.* UVMMC’s charge increase results in an approximately 13.5% increase in commercial rates. *See UVMMC Submission, Narrative, 24; Appendix 10.* UVMMC requested the largest increase in commercial rates of any hospital in the state. 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.* UVMMC had also requested the largest increase in commercial rate of any hospital in the state in FY23.

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

	Volume	Rates to Cover Cost Inflation	All Other	
	Access Improvement, Population Growth & Aging	Medicare, Medicaid & Commercial	Payer Mix, Bad Debt & Charity	Total
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%

UVMMC 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. UVMHC’s operating expenses have grown significantly since 2018. In FY18, UVMHC’s submitted operating expense growth was 4.4%; however, that number increased to 5.9% in FY19 and then to more than 8% in FY20. For FY22-24, the increase is over 15%, which is second in the state only to UVMHN’s Porter Hospital. A summary of UVMHC’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	3.5%	5.0%	6.1%	5.7%	6.0%	10.5%	23.8%
	Δ Approved	-0.1%	0.0%	-0.2%	-0.7%	0.0%	0.0%	
Commercial NPR	Submitted	3.2%	2.5%	7.7%	8.2%	3.2%	18.1%	36.6%
	Δ Approved	-0.2%	0.9%	-0.4%	-1.2%	0.0%	-3.3%	
Operating Expenses	Submitted	4.4%	5.9%	8.1%	8.7%	6.5%	15.6%	15.3%
	Δ Approved	-0.4%	0.0%	-0.2%	-0.6%	0.0%	0.0%	
Change in Charge	Submitted	0.7%	4.0%	4.0%	8.0%	7.1%	19.9%	20.1%* CER: 28.2%*
	Δ Approved	0.0%	-1.5%	-0.5%	-2.0%	1.5%	-5.1%	
	Commercial weight of approved increase	0.3%	1.0%	1.4%	2.4%	3.3%	5.5%	10.5%*

*As submitted; CER = Commercial Effective Rate

Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 2023), 1.

7. A summary of changes in UVMHC’s actual NPR increases, operating expenses and commercial NPR is below:

Actuals							
Year		FY18	FY19	FY20	FY21	FY22	FY23
NPR	%	3.5%	2.5%	-6.7%	9.0%	14.5%	15.0%
	\$ in M	42.9	31.2	-85.5	108.0	189.7	224.8
Commercial NPR	%	0.9%	5.6%	-7.9%	9.1%	11.1%	17.9%
	\$ in M	6.5	40.1	-59.9	63.2	84.3	151.1
Operating Expenses	%	5.8%	6.6%	4.1%	7.5%	17.6%	7.5%
	\$ in M	72.1	87.6	57.2	110.1	276.1	137.8

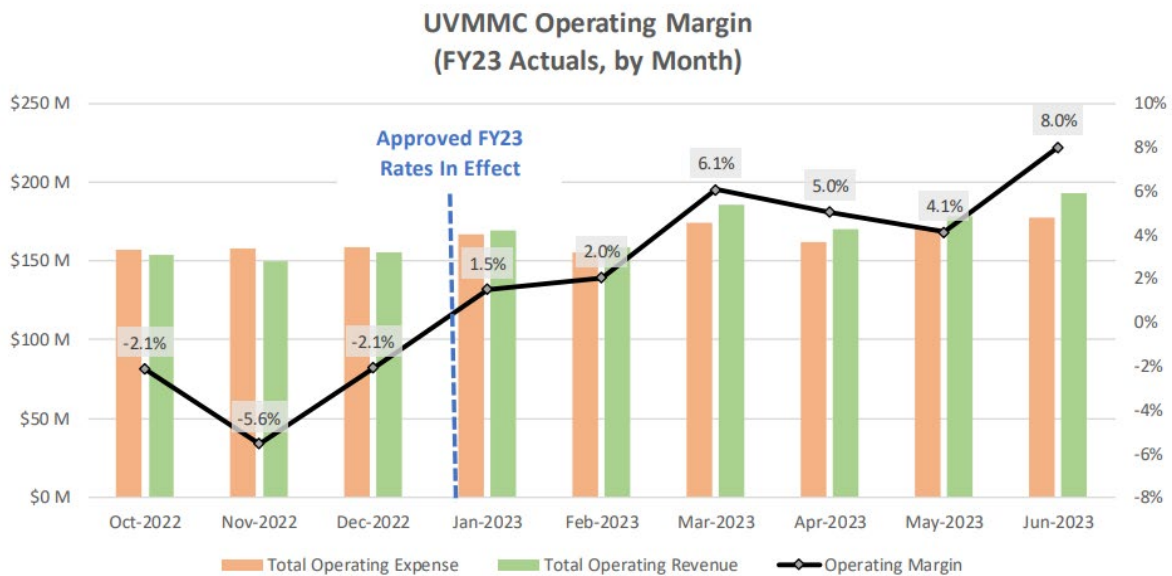
Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 2023), 1.

8. UVMHC's FY24 budget includes total operating expenses of \$2,131,689,985, an increase of approximately \$283 million, or 15%, from actual FY22. UVMHC Submission, Income Statement, 1. UVMHC's budgeted FY24 operating expenses are approximately \$210 million more than its budgeted FY23 operating expenses, which represents an 11% increase. *See id.*
9. UVMHC'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 (%)
UVMHCN (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%
UVMHC	\$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. For its current FY23 year performance, the following chart summarizes UVMHC's operating margins by month:



FY24 Hospital Budget Deliberations, Staff Presentation (Sept. 13, 2023), 7.

11. UVMHC's labor related expenses increased approximately 3.9% on average per FTE from FY22 to budgeted FY24. *See Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 2023), 2.* Additionally, UVMHC reported a labor expense inflation factor of 6.4% from FY22-FY24. *See UVMHC 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. UVMHC included assumptions for an 8.2% utilization increase from FY22 to FY24 budget. *See Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 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.* UVMHC submitted wait times information for each hospital. *See UVMHC Submission, Narrative, 31-34.*¹² The GMCB reviewed wait times information submitted for FY24 and for prior years.
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?" UVMHC 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 UVMHC 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 UVMHC, CVMC and Porter Hospital 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)?" UVMHC 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

¹² Referral lag information is available here: https://uvmhealthstg.wpengine.com/wp-content/uploads/2023/06/GMCB-Submission-Access-Data_Referral-Wait-Times.pdf. Visit lag information is available here: https://uvmhealthstg.wpengine.com/wp-content/uploads/2023/06/GMCB-Submission-Access-Data_NPV-Scheduled-Within-1.pdf.

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. UVMHC’s budgeted cost inflation for FY22-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 UVMHC, GMCB Staff Presentation (Sept. 13, 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. UVMHC’s total cost inflation is 5.2%, 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, utilities, and insurance. *See* UVMHC Submission, Narrative, 17.
21. In terms of pharmaceutical costs, UVMHC’s pharmaceutical expense growth from FY22 to FY24 budget is 30.7%. *See* Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 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. UVMHC’s ratio of administrative and general salaries to clinical salaries was 31%. *See* Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 2023), 3. Compared to the peer group of the Association of American Medical Colleges Hospitals, that ratio was higher than the 75th percentile mark of 26%. *See id.*
24. Prior to its hospitals’ budget hearings, UVMHN argued that the ratio of administrative and general salaries to clinical salaries for UVMHC was misleading because “it includes all UVMHN shared services salaries that run through the UVMHC General Ledger in the

¹³ The attachments are available at:

https://gmcboard.vermont.gov/sites/gmcb/files/documents/UVMHN_GMCB_UVMHC%20Arrived%20Visits%20%20cFTE.pdf and https://gmcboard.vermont.gov/sites/gmcb/files/documents/UVMHN_GMCB_UVMHC%20PMC%20Arrived%20Visits%20%20cFTE.pdf

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 UVMHC, but not for CVMC or Porter Hospital. See *id.*

25. Using UVMHC’s adjusted calculations, UVMHC’s ratio of administrative and general salaries to clinical salaries decreased to 24.4%, as summarized in the following table (the comparison group, the Association of American Medical Colleges Hospitals, did not have any adjustments to the method of calculating the ratio):

Ratio of Administrative & General Salaries to Clinical Salaries (Assoc of American Medical Colleges Hospitals)

Hospital	VT Hospital Rank	Hospital Percent Rank ¹	Comparator 25 th Percentile	Comparator 75 th Percentile
24.36%*	9	71 st	9%	26%

*Adjusted from 31.0% per [letter received Sept 5, 2023](#)

Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 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%)							
<i>millions</i>	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%
UVMHC	\$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%)							
<i>millions</i>	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%
UVMHC	\$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 UVMHN 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 expenditure over the median for administrative services could reach approximately \$91.48 million for UVMHC, \$14.41 million for CVMC, and \$6.26 million for Porter. See FY24 Hospital Budget Deliberations, Staff Presentation (Sept. 13, 2023), 19.

30. UVMHC’s CMI-adjusted average cost per Medicare discharge is in the following table (compared to the Association of American Medical Colleges Hospitals):

CMI-Adjusted Average Cost per Medicare Discharge (Assoc of American Medical Colleges Hospitals)

Hospital	VT Hospital Rank	Hospital Percent Rank ²	Comparator 25 th Percentile	Comparator 75 th Percentile
\$14,277	12	83 rd	\$9,742	\$13,013

Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 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 UVMHC 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 [sic] 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 UVMHC. *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 UVMHC for Blue Cross VT members, payments will increase by approximately 0.7%. During their hospital budget hearing, UVMHC 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. UVMHC’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 major teaching hospitals):

Inpatient – Relative Cost and Price (Major Teaching Hospitals)						
Year		FY18	FY19	FY20	FY21	FY22
Commercial Cost per Discharge	Hospital	\$20,549	\$19,021	\$17,797	\$19,563	\$17,555
	DH	\$23,153	\$23,725	\$23,002	\$23,544	\$23,047
Commercial Cost Coverage	Hospital	113%	115%	115%	114%	147%
	DH	115%	115%	120%	114%	136%
Standardized Price	Hospital	\$28,896				
	25 th percentile	\$23,063				
	75 th percentile	\$36,543				

DH = Dartmouth-Hitchcock

Outpatient – Relative Cost and Price (Major Teaching Hospitals)						
Year		FY18	FY19	FY20	FY21	FY22
Commercial Cost per Discharge	Hospital	\$468	\$423	\$439	\$504	\$537
	DH	\$559	\$756	\$666	\$651	\$708
Commercial Cost Coverage	Hospital	289%	246%	234%	245%	255%
	DH	225%	133%	174%	180%	187%
Standardized Price	Hospital	\$351				
	25 th percentile	\$214				
	75 th percentile	\$315				

Summary for GMCB Deliberations for UVMHC, GMCB Staff Presentation (Sept. 13, 2023), 4.

37. Commercial cost per discharge, commercial cost coverage, and standardized price data is from analysis produced by Burns and Associates¹⁴ 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. UVMHC’s FY24 budget included reimbursement changes from Medicaid for a 2.3% rate increase for professional services, a 0.9% reduction for outpatient rates, and a 0.9% reduction from inpatient rates. See UVMHC Submission, Narrative, 28. UVMHC’s FY24 budget included reimbursement changes from Medicare for a 5.1% rate increase for inpatient rates, a 1.5% increase for professional rates, and a 1.5% decrease for outpatient rates. See *id.*
39. UVMHC stated that, with respect to an impact on UVMHC of potential increases in New York Medicaid rates: “The actual NY Medicaid increases were 7.5% on inpatient and 6.5% on outpatient services. These increases were factored into all Network New York hospitals’ FY24 budgets. For NY Medicaid patients in UVMHC’s FY24 budget, none of these increases were finalized at the time of budget development. We also did not know if they would be applied to out-of-state providers the same as NY hospitals. We are currently seeking confirmation from the NY Department of Health if those same rate increases will

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.

apply to out-of-state providers for NY Medicaid patients. If it is determined those same rate increases would apply to NY Medicaid patients seeking services at UVMMC, the estimated impact would be \$2.2M of additional net patient revenue.” *See UVMHN Responses, GMCB budget hearing – follow-up questions (Sept. 5, 2023), 1.*

40. UVMMC 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 UVMMC Submission, Narrative, 24.*
41. For FY24, UVMMC budgeted an operating margin of \$65,942,761, or approximately 3.0%, and a total margin of 4.48%. UVMMC Submission, Income Statement, 1. UVMMC projects a 3.22% operating margin and a 6.09% total margin in FY23. UVMMC Submission, Income Statement, 1. For FY23, UVMMC projects an operating margin of \$66.2 million, which is \$26.9 million more than the hospital budgeted for FY23. *See id.* For FY23, UVMMC projects a total margin of \$125.1 million, which is \$68.9 million more than the hospital budgeted. *See id.* For FY22, UVMMC had an operating margin of -1.24% and a -9.69% total margin. *Id.*
42. UVMHN’s budget (for all network hospitals) anticipates 132.7 days cash on hand in FY24. UVMMC 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.*
43. A summary of UVMMC’s financial indicators is included below:

Financial Indicators

	UVMMC				Vermont Hospitals
	FY22 Actual	FY23 Approved	FY23 YTD	FY24 Submitted	FY24 Median
Op Margin	-1.2%	2.0%	3.2%	3.0%	1.2%
Op-EBIDA Margin	3%	6%	7%	7%	5.6%
Total Margin	-10.6%	2.8%	5.9%	4.4%	3.8%
DCOH	112.5	128.9	96.7	90.9	109.64
Debt Service Coverage Ratio	1.6	3.3	4.1	4.6	4.56
LT Debt to Capitalization Ratio	29.0%	25.3%	26.3%	33.3%	0.17
Age of Plant	11.8	13.0	12.5	13.3	16.02

Summary for GMCB Deliberations for UVMMC, GMCB Staff Presentation (Sept. 13, 2023), 2.

44. UVMMC’s income statement reflects a Gain from Sale of Investments projected for FY23 of \$60,806,231. *See UVMMC Submission, Income Statement, 1.* The hospital had budgeted \$16,632,098 for that amount for FY23. *See id.* UVMMC 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.

45. 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.
46. UVMHC’s FY23 projected NPR is \$1.72 billion. *See* UVMHC Submission, Income Statement, 1. The hospital’s projected NPR is approximately \$63.5 million more than its budgeted NPR for FY23. *See id.*
47. 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.”)
48. For 2024, UVMHC plans to be a participating provider with OneCare Vermont’s commercial, Medicare, and Medicaid programs. *See* UVMHN responses, GACB staff analysis questions (Aug. 1, 2023), 10-11.
49. During a confidential executive session during its budget hearing on August 23, 2023, which was attended by the GACB and the Office of the Health Care Advocate, UVMHC presented a cost-reduction contingency plan.
50. 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* UVMHC Submission, Narrative, 2, 3.

51. The GMCB solicited and considered public comment on all aspects of hospital costs and use, and on the budget proposed by UVMMC, through a special comment period and public comment periods during the GMCB's hospital hearings and deliberations.
52. 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

UVMMC's FY22 actual to FY24 budgeted NPR growth of 23.8% exceeded the Board's NPR growth guidance of 8.6%. *See* Findings, ¶2. As UVMMC's NPR growth exceeded the benchmark, we review UVMMC'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 UVMMC has not met its burden of persuasion to justify a 10.0% charge increase. UVMMC's expense growth, overall costs, and anomalous annual charge increase requests of the past few years belie any claim that a second consecutive year of double-digit rate increase is appropriate and consistent with GMCB's statutory charge. For reasons set out in this Order, we approve UVMMC's budgeted NPR growth of 23.8% from its actual FY22 results and approve a charge increase of 3.1%.

First, as a result of responses that were incomplete, did not address the questions asked, or did not provide the required information, UVMMC failed to provide GMCB with information critical to support UVMMC's budget submission, including its requested change in charge. Several examples of this are highlighted in this Order. Second, in critical respects UVMMC'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 comprehensively 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. UVMMC'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.

In terms of the expense growth indicators set in the FY24 Guidance, UVMMC's FY22 to FY24 per FTE labor expense growth of 3.9% was near the median for Vermont hospitals and

below the GMCB's benchmark of 5.2%. *See Findings, ¶¶ 11, 12.* UVMMC's FY22 to FY24 budgeted utilization increase of 8.1% was above the median for Vermont hospitals and the benchmark in GMCB's guidance. *See Findings, ¶¶ 13, 14.* UVMMC's pharmaceutical expense growth factor was 30.7%, 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.* UVMMC's approved budgeted operating expense growth was around 8% for FY20 and FY21. *See Findings, ¶6.* UVMMC's budgeted operating expense increase for FY22 was 6.5%, but its actual operating expense growth was 17.6%. *See Findings, ¶¶6, 7.* From FY22 actual to its FY24 budget, UVMMC's operating expenses grew approximately \$283 million, or 15%. *See Findings, ¶8.* UVMMC's operating expense has grown at a rate above medical inflation for FY22-FY24. *See Findings, ¶4, 7.* Despite the growth in operating expenditures, UVMMC did not present convincing evidence of a reduction in wait times that may have justified some increase in operating expenses. *See Findings, ¶¶15, 16.* As discussed further below, the submitted wait times metrics in FY24 made a comparison with FY23 difficult, and where metrics were the same, some measures showed a decline in performance. *See id.* 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 UVMMC's operating expense growth, we find several indicators of inefficiency. The hospital's ratio of administrative and general salaries to clinical salaries is near the 75th percentile of its peer group, even if we take an approach favorable to the hospital and use the adjustments it requested to the calculation. *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 Hospital'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, ¶¶23-26.* After specific Board follow up, UVMHN acknowledged that its adjustments to UVMMC would mean that CVMC's administrative costs would jump from 20.77% to 30.91%, and Porter's would increase from 13.58% to 29.25%. *See Findings, ¶¶23-26.* 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. ¶*

UVMHC's CMI-adjusted cost per Medicare discharge, at \$14,277 is at the 83rd percentile for its peer group. *See Findings, ¶30.* The hospital's standardized commercial price for inpatient services, at \$28,896, is at the 50th percentile of its peer group, and its standardized price for outpatient services, at \$351, is at the 84th percentile. *See Findings, ¶30.*

Prior to its hearing, UVMHN argued that UVMHC's high CMI-adjusted cost per discharge should be lower because of its alleged historical failure to accurately record patient acuity. *See Findings, ¶¶31-33.* UVMHC claimed that if it accurately recorded patient acuity then its CMI would be higher and UVMHC would be less expensive on a CMI-adjusted cost per discharge basis, which would be favorable to its large rate request. *See id.* UVMHN's representations on this issue were not credible for a host of reasons.

First, UVMHC attempted to use its adjusted CMI calculations to lower its cost per discharge, but *did not* utilize its projected 2.3 CMI in its budget (where it indicated its CMI was 1.88). Had UVMHC used its CMI calculations consistently, it would have increased revenue from many payers and lowered its need for a large commercial rate increase. *See Findings, ¶¶31-35.*

Second, UVMHC used an adjusted acuity level to reduce its CMI-adjusted cost per discharge, but did not describe in sufficient detail whether the CMI changes would impact any revenue or cost calculations in its CMI-adjusted cost per discharge. UVMHC did acknowledge that the CMI used in the budget was underestimated relative to what it expects to achieve over the next few years and relative to what assumptions were included in the budget, but failed to sufficiently describe these assumptions *See Findings, ¶¶31-35.*

Third, UVMHN stated that the CMI issue "primarily" impacted Medicare payments. *See Findings, ¶32.* UVMHN further suggested that improving its CMI would allow it "to lower our ask for commercial rates" because it would allegedly allow it to more accurately bill Medicare and increase Medicare reimbursements. *See id.*¹⁵

The Board propounded follow-up questions elicited a vague assertion from UVMHN that private payer impact "could be in the \$10M per year range," which "will not all be realized in FY24." *See Findings, ¶33.* UVMHN, however, provided no information to the Board on which it could evaluate UVMHN's claims that not all of the increase would be realized in FY24, or for the Board to evaluate how much of the increase would be realized in FY24. Moreover,

¹⁵ UVMHN had known about its failures to accurately bill Medicare related to its CMI for many years (the president of UVMHC testified that "I've been in leadership at the medical center in one role or another since 2006, and every year I've been in leadership we've worked on improving case mix index." *See Testimony of Stephen Leffler, Hearing Transcript, (Aug. 23, 2023), 112:12-112:18.* *See Findings, ¶27.* Moreover, on one hand, UVMHN stated that a "good regulator" would have identified its purported failures to accurately record diagnoses (*see Testimony of Dr. Sunil Eappen, Hearing Transcript (Aug. 23, 2023) 111:8-111:14*), while on the other the UVMHN trustees wrote legislative leaders citing concerns that GVCB was "micromanaging," and "overreaching" in its evaluation of UVMHN budgets. *See Letter to President Pro Tem Baruth, Speaker Krowinski, Chair Lyons and Chair Houghton from Chairs of Boards of Trustees of UVMHN, UVMHC, CVMC, and Porter (Sept. 8, 2023), 1.* Properly documenting patient acuity is, of course, UVMHN's responsibility and that it has known for years that it was not—and did not timely rectify the issue or disclose this fact in its original FY24 budget submission—is troubling.

UVMHN's response was inconsistent with public comment from BlueCross BlueShield of Vermont ("BCBSVT") indicating that just for that one insurer a CMI increase to 2.3 could result in \$11M of additional payments. *See Findings, ¶¶33, 34.*

UVMHN additionally did not identify "the commercial payers that may be impacted by" its CMI improvement efforts that the Board requested, and instead provided an opaque response that "any" DRG reimbursed payers "may be impacted" and relied on a confidentiality assertion to avoid providing the requested information. *See Findings, ¶35.* UVMHN's response denied the Board adequate information on which to evaluate the assertion that the CMI project would only increase commercial payments "in the \$10M per year range," and counters against UVMHC's position that a large rate increase is necessary.

Fourth, UVMHC refused to provide GMCB with the external assessments and benchmarks that it purportedly relied on to calculate its own case mix index level. During the UVMHN hospitals' hearing, UVMHN indicated that its estimate of an improved CMI was based in part on external assessments and benchmarking. The Board asked: "Could you provide the board the benchmarks and assessments?" *See Findings, ¶31.* UVMHN responded: "We can. Yes." *See Findings, ¶31.* However, UVMHN never provided those benchmarks or assessments. Indeed, even after the Board issued a specific written follow-up request, UVMHN refused to do so, again citing "confidentiality." *See Findings, ¶35.*¹⁶ Failure to provide this information renders UVMHN's projections and timelines unsupported and unreliable.

UVMHN represented that a large rate increase was warranted to ensure access and prevent service line cuts. *See Findings, ¶49, 50.* 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, ¶49.* Additionally, we do not adjust UVMHC's budgeted NPR growth for FY24, so the hospital does not need to limit services or utilization in order to reduce NPR for FY24.

Furthermore, before a hospital contemplates any reduction in patient services, the Vermonters it serves should expect the hospital to exhaust other opportunities for cost reduction and sources of potential revenue. UVMHC's budget submission does not demonstrate that it has done so. As one example, using data submitted with UVMHC's budget shows that if all shared administrative spending were at or below the median, it could remove approximately \$91.48 million from its budgeted expenditures. *See Findings, ¶¶27-29.*

UVMHC could achieve the margin and NPR/FPP it requested, and that we have approved, through any number of sources aside from further burdening Vermont ratepayers with

¹⁶ As UVMHN knows and understands, GMCB has a process to evaluate confidentiality requests and claims of confidentiality are evaluated and if the material is in fact confidential it is nonetheless provided to the Board consistent with such a finding. Indeed, UVMHN affirmatively sought and utilized the Board's confidentiality process in connection with asserting the reduction of services if it were not provided its budget request.

a large charge increase, including through unbudgeted increases in Medicare or Medicaid reimbursements, 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 UVMHC and there are significant wait times to see specialists at UVMHN hospitals. *See Findings, ¶15.* The Board therefore requested UVMHC 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. A GMCB analysis of productivity data provided by UVMHN and raised in the budget hearing with UVMHC, shows less than 10 – and in some cases 5 or less – patients per day being seen per clinical FTEs in certain practice areas. *See Findings, ¶17.* UVMHN stated in the hearing it would provide follow-up related to that analysis but then failed to provide the GMCB with sufficient additional information. *See Findings, ¶17.* 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.

Moreover, UVMHC’s FY24 submission included a chart of wait times for particular radiology services. Comparison to UVMHC’s FY23 submission indicates that UVMHC’s most frequent imaging procedures changed between the two years, making direct comparisons for three of the procedures impossible. Two of the imaging procedures were the same in UVMHC’s FY23 and FY24 submissions and the percentage scheduled within 3 days for both of those procedures *declined* significantly year-over-year (CT Head WO Contrast from 87.23% to 56.25%; US Abdomen Limited from 84.17% to 53.74%). *Compare UVMHC Submission, Narrative, 32; with UVMHC Radiology Data (June 1, 2022 – June 14, 2022)*¹⁷.

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, ¶47.* 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

¹⁷ Available at: <https://gmcboard.vermont.gov/sites/gmcb/files/documents/UVMHC%20Radiology%20Data.pdf>

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, UVMMC could look to other potential revenue opportunities. A few examples include increased reimbursements from an increased CMI, more than \$50 million in investment gains that are characterized as unrecognized but still reflected in UVMHN’s financials (and more than \$44 million of which were unbudgeted), increased volume through improved efficiency, or additional Medicaid payments from the state of New York. *See Findings, ¶¶ 15, 16, 25, 39, 44.*

UVMMC’s FY23 performance has been stronger than the hospital anticipated – the hospital had budgeted for a 2.4% margin but anticipates a 3.8% margin, a difference of approximately \$26.9 million. *See Findings, ¶¶ 10, 41.* For FY23, UVMMC projects a total margin of \$125.1 million, which is \$68.9 million more than the hospital budgeted. *See id.* Looking at UVMMC’s more recent results in calendar year 2023, when its FY23 rate increases had taken effect, the hospital’s performance by month is very strong, with a monthly operating margin improving from 1.5% in January to 8% in June despite statements and predictions to the contrary made following the Board’s FY23 rate decision for UVMMC. *See Findings, ¶¶ 10, 41.* Our decision for UVMMC’s FY24 budget must reflect UVMMC’s budget performance for prior years. *See 18 V.S.A. § 9456(c)(4).*

Based on the data available to the Board—and absent an adequate response to Board questions—UVMMC has not met its burden to justify its large rate increase request and UVMMC should seek to achieve the margin and NPR/FPP it requested by increasing efficiencies and pursuing the revenue opportunities outlined above improving its wait times and access to care.

UVMMC submitted a rate for FY24 that brings its two-year change in charge to 20.1% (using UVMMC’s proposed “commercial effective rate” formulation, the increase is more than 28%), which is more than double medical inflation over that time. *See Findings, ¶¶ 3-6.* It’s also double UVMMC’s own measure of total cost inflation at 5.2%. *See Findings, ¶ 20.* UVMMC’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 UVMMC'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 far exceed the average wage growth in Vermont are inconsistent with that mandate. *See Findings, ¶¶ 5, 6.* 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, ¶51.*

ORDER

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

- A. UVMMC's FY24 NPR/FPP budget is approved at a growth rate of not more than 23.8% over its FY22 actual, with a total NPR/FPP of not more than \$1,853,481,226 for FY24.
- B. UVMMC'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 UVMMC and commercial insurers. UVMMC 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. UVMMC's expected commercial NPR, based on its budget as adjusted in this Order, is \$862,152,827. UVMMC 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. UVMMC shall submit to the Board within 3 months a plan addressing UVMMC'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, UVMMC is required to meet monthly with Board staff for monitoring purposes.
- F. Beginning on or before November 20, 2023, and every month thereafter, UVMMC 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. UVMMC 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, UVMMC 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. UVMMC 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. UVMMC 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. UVMMC 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. UVMMC 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. UVMMC 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. UVMMC shall participate in the Board's work, including the community engagement process, pursuant to Act 167.
- N. UVMMC shall timely file all forms and information required for practice acquisitions and/or transfers as determined by GMCB staff, if applicable.
- O. UVMMC 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

<u>s/ Owen Foster, Chair</u>)	
)	GREEN MOUNTAIN
<u>s/ Jessica Holmes</u>)	CARE BOARD
)	OF VERMONT ¹⁸
<u>s/ Robin Lunge</u>)	
)	
<u>s/ Thom Walsh</u>)	

¹⁸ Board Member David Murman abstained from participation in the deliberations and voting on the UVMMC 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.