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March 18, 2024

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

The HCA thanks the Green Mountain Care Board (Board) for their presentation and discussion regarding the proposed mid-year budget increase request from Copley Hospital. As stated in a verbal public comment on March 13th, the HCA is not opposed in principle to the concept of mid-year adjustments but by law they are only permitted if a hospital can meet the burden of proof that it is facing circumstances that are “exceptional or unforeseen.”¹

The HCA recognizes that some have argued that because Copley is a small piece of Vermont’s health care system, this proposed increase – if approved – would not substantially increase overall hospital system spending. However, this is not the standard by which mid-year budget adjustments are evaluated. The Board has only granted one small mid-year adjustment in recent years (CVMC), writing (in part) in that budget order: “Increased cost pressures from price inflation, staffing challenges, and increased use of high-cost temporary labor do not, by themselves, necessarily constitute “exceptional or unforeseen circumstances,” but we conclude that taken together, and in the context of how those factors impact CVMC’s financial performance, the circumstances the hospital is facing are ‘exceptional or unforeseen.’”² Copley has not provided sufficient evidence that they are facing similar exceptional or unforeseen circumstances. For example, a significant component of their request is simply a resubmission of their FY24 budget request: “12.7% represents the 7.0% that was cut from the FY24 budget” while the rest is for “lost revenue from Oct – Feb, unexpected loss in A/R Aging, and a needed increase [in] nursing salaries.”³ Copley also alluded in the March 13th Board meeting that historically it should have asked for more of a rate increase, an argument that directly conflicts with the “exceptional or unforeseen circumstances” standard. It is not - nor should it be – the responsibility of the Board to fill potential “gaps” in budgets from past years when the hospital did not even request them.

If Copley believed it could find fault with the Board’s FY24 budget order – a decision that granted Copley the highest rate increase of any hospital in Vermont (8%) which resulted in their receiving the second highest 2-year increase of any hospital in the state (20%)⁴ – the appropriate route would be to file an appeal. The mid-year budget adjustment process has a deliberately high standard and narrow scope that hospitals must bear the burden of meeting. This bar is presumably to guard against the exact situation the Board current faces: a hospital

¹ 18 V.S.A. § 9456.

² Green Mountain Care Board. “Modification of FY2022 Hospital Budget Decision and Order.” Docket No.21-002-H. Page 7.

³ “Copley GMCB Rate Adjustment Request.” Slide 25. 13 March 2024.

⁴ Green Mountain Care Board. “GMCB Establishes FY24 Hospital Budgets Balancing Affordability and Sustainability.” 15 Sept. 2023.

petitioning the Board for what largely amounts to a “re-do” with an additional increase request tacked on. Granting any increase to Copley will diminish the standard for what qualifies as “exceptional or unforeseen” and risk establishing a slippery slope by which hospitals circumvent the formal annual hospital budget review process when the public is significantly less engaged.

Copley did not present evidence that they considered any cost reductions or efficiency improvements. The Board’s analysis of Copley’s submission also noted: “In recent years, Copley’s approved charge increases have nearly caught up with other Critical Access Hospitals, while their operating expense growth continues at a faster rate” and “Relative to FY16, Copley has had the 3rd highest operating expense growth among Vermont Community Hospitals.”⁵ The HCA believes that hospitals should at least attempt to conduct this type of exercise before asking for a budget increase that will directly impact affordability and access for its patients.

The HCA believes that Copley Hospital has not met the burden of proof required by law to justify a mid-year budget adjustment. Therefore, the HCA recommends that the Board reject Copley’s request.

Thank you for your consideration.

Sincerely,

s\ Mike Fisher, Chief Health Care Advocate

s\ Sam Peisch, Health Policy Analyst

⁵ Green Mountain Care Board “Copley Hospital: Budget Modification Request. GMCB Hospital Budget Staff Presentation.” March 13, 2024.