

**STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD**

In re:	)	
	)	
Mount Ascutney Hospital and Health Center Fiscal Year 2025	)	Docket No. 24-007-H
	)	
Northwestern Medical Center Fiscal Year 2025	)	Docket No. 24-010-H
	)	
Southwestern Vermont Medical Center Fiscal Year 2025	)	Docket No. 24-013-H
	)	
Springfield Hospital Fiscal Year 2025	)	Docket No. 24-014-H
	)	

**REPLY TO BLUE CROSS AND BLUE SHIELD OF VERMONT’S REPLY TO RESPONSE TO THE GREEN  
MOUNTAIN CARE BOARD’S REQUEST FOR BRIEFING REGARDING HOSPITAL’S REQUEST TO AMEND  
CONDITION B OF ORDER**

NOW COME Mount Ascutney Hospital and Health Center, Northwestern Medical Center, Southwestern Vermont Medical Center, and Springfield Hospital (the “Hospitals”) to respond to Blue Cross and Blue Shield of Vermont’s (“Blue Cross VT”) Reply to Response to the Green Mountain Care Board’s Request for Briefing Regarding Hospital’s Request to Amend Condition B of Order.

**I. Blue Cross VT is Mistaken as to the Definition of Rate in the Context of Hospital Budget Orders**

Blue Cross VT posits that “rate increase” means “the year over year change in commercial payments,” rather than defining “rate increase” as the change in net commercial payments over the gross charges, as the Hospitals have defined “rate increase” and made known to the Board prior to and during deliberations. In the context of hospital budgets and the work of the Green Mountain Care Board (the “Board” or “GMCB”), Blue Cross VT is respectfully mistaken.

The Board’s Hospital Budget Review Guide, publicly published to their State of Vermont website, provides the following explanation as to how the board regulates rate growth, or charge growth:

The change in charges is the increase (or decrease) in the *average gross charge* – the FFS sticker price – for all services, for all payers. Instead of regulating charges for particular hospital services, the Board sets a maximum average gross charge increase per hospital for all services for all payers; however, Medicare and Medicaid do not negotiate their prices, so change in charges impact hospitals’ negotiations with commercial insurers. The Board regulates the increase in *gross charges* (sticker price) instead of *net charges* (which are gross charges minus the negotiated deductions by payers and hospitals) because negotiated prices are considered confidential, and this information is not available to the GMCB.

Green Mountain Care Board, Hospital Budget Review Guide, ([https://gmcbboard.vermont.gov/sites/gmcb/files/documents/HospitalBudgetReview\\_Guide\\_20220929.pdf](https://gmcbboard.vermont.gov/sites/gmcb/files/documents/HospitalBudgetReview_Guide_20220929.pdf))

Similarly, please see the following for further support as published by the GMCB during several past hospital budget processes:

FY2024 Adaptive User Guide, at 38 (creating a standardization of reporting) in which the GMCB defines "rate" as *"the amount of increase given to the charge master prices."*

FY2023 Uniform Reporting Manual, at 12 (outlining "rate" as the *"annual change in charges requested by the hospital."*)

September 6, 2024 deliberations slides (slide 19) (the GMCB discussed the differences between charge and commercial negotiated rate increase, outlining the differential impact.

The GMCB Adaptive User Guide and Uniform Reporting Manual are key components in the GMCB hospital budget process. These documents define and direct hospital budget entry into the GMCB database in great detail. The language from the previous budget cycles (see above) relating to charge master increases aligns with the GMCB’s historical approach to approving, denying, or adjusting hospital requests. The language does not conform to the new definition cited by Blue Cross VT. At no time has GMCB redefined the definition of “rate” for use in their hospital budget materials in a manner that would lead to this interpretation of “rate increase” in the hospital budget context.

These documents play an important role in the budget process by directing hospitals how to provide information the GMCB uses in its consumption of budget materials to generate budget decisions.

**II. The Hospitals Raised This Issue Given the First Meaningful Opportunity to Do So.**

Hospitals did their best to negotiate in good faith with commercial payers in FY2024. However, it is impossible for the Hospitals in this matter to speak to why other hospitals did what they did last year. As an example, for both Mount Ascutney Hospital and Health System (“Mount Ascutney”) and Springfield Hospital, the number used for Condition B in the FY2024 budget orders was the higher percentage, that of the “change in charge” or chargemaster, not the “commercial rate increase” percentage. As such, the issue currently before the Board did not exist for Mount Ascutney or Springfield Hospital, for example, last year.

This year, the lower percentage has been applied to both the “change in charge” and the “commercial rate increase,” presenting a different fact pattern. Moreover, Mount Ascutney approached Alena Berube before the FY2025 budget deliberations, as already documented in their request for an amendment, in an attempt to clarify this issue. Mount Ascutney submitted the Workbook Rate Decomposition Sheet, based on its communications with Ms. Berube. Had it been explained to Mount Ascutney that the change in charge would be capped at the negotiated commercial rate increase, Mount Ascutney would have made a submitted different content in the Workbook Rate Decomposition Sheet. Springfield Hospital also communicated with Ms. Berube, prior to deliberations, about this issue in FY2025, in an attempt to avoid the very situation the Hospitals are now in.

Entering the FY2025 negotiations, hospitals, through the Vermont Association of Hospitals and Health Systems (“VAHHS”), made a point to work with legal counsel for the Board on an agreed upon process and timing to preserve objections and issues for appeal. Here, there is ample evidence submitted in VAHHS’ initial request (10/2/024) and the Hospitals’ subsequent individual letters requesting the amendment (Mt. Ascutney Hospital Request for Amendment (10/23/2024), Northwestern Medical Center Request for Amendment (10/03/2024), Springfield Hospital Request for Amendment

(10/23/2024), and Southwestern Vermont Medical Center Request for Amendment (10/21/2024)), that the Hospitals raised the issue currently before the Board prior to or during deliberations, to no avail.

Blue Cross VT takes the position that, even though there can be no question the issue before the Board was raised several times by the Hospitals prior to the Board's vote on the FY2025 Budget Orders, the Hospitals have in effect waived the issue because of last year's FY2024 hospital budget proceedings. There is no support in Vermont law for this conclusion. If anything, the historical approach by the GMCB of requesting, reviewing, approving, denying and/or adjusting charge master increases, was clear, indicating to all parties involved exactly what the GMCB was attempting to control. Additionally, the historical approach to charge master related Board decisions since the GMCB's inception (12+ years), as a matter of precedent, dwarfs the precedent cited by Blue Cross VT in their response to this matter.

WHEREFORE, for the reasons discussed herein and their original amendment requests, the Hospitals respectfully request the Board amend Condition B to remove reference to "change in charge."

Respectfully submitted this 29<sup>th</sup> day of October, 2024

**PRIMMER PIPER EGGLESTON & CRAMER PC**

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