

**Legal Department**

September 5, 2024

Mr. Mark Hengstler, Esq.  
 Staff Attorney  
 Green Mountain Care Board  
 144 State Street  
 Montpelier, Vermont 05602

**Subj: Submission of Objections related to the September 4, 2024 Hearing on Staff Recommendations**

Dear Mark:

Rutland Regional Medical Center ("RRMC") respectfully submits the following objections on the record, citing Plain Error, Insufficient Rationale, and a General Objection with a Reservation of Rights arising from the September 4, 2024, Green Mountain Care Board ("GMCB") hearing on staff recommendations.

We present these objections for inclusion in the public record, aiming for correction. Further, these objections are made to preserve RRMC's right to appeal any decision made on these recommendations due to erroneous calculations, unclear methodologies, and recommendations that overlook critical evidence.

**I. Plain Error: Slide 32 – RRMC Row, Column - “Subject to Enforcement”**

During the staff presentation on September 4, Ms. Berube presented an FY23A figure of \$325,035,199 and an FY23B of \$313,970,338, with an enforcement amount of \$12,419,857 as referenced in the below chart. This enforcement amount was improperly calculated. We respectfully request that the calculation be corrected and entered into the record to reflect the accurate enforcement amount. This correction will, in turn, impact the enforcement recommendation.

Slide 32	Corrected	As presented
2023 Budget Net Patient Revenue	\$ 313,970,338	\$ 313,970,338
2023 Actual Net Patient Revenue	\$ 325,035,199	\$ 325,035,199
Amount Subject to Enforcement	\$ 11,064,861	\$ 12,419,857

**II. Plain Error: Slide 32 – RRMC Row, Column - “Enforcement Rec”**

During the hearing, Ms. Berube stated that the enforcement recommendation reflected one-half of the total NPR overage beyond 1%. We object to the calculations in the enforcement column due to plain error, as they do not align with this methodology. After correcting the "Subject to Enforcement" error, the 1% threshold should be recalculated, reducing RRMC's amount subject to enforcement to \$7,925,158, as detailed in the attached chart. This adjustment alters the enforcement recommendation after the 50% reduction.

Slide 32	Corrected	As presented
2023 Actual Net Patient Revenue	\$ 325,035,199	
2023 Budget Net Patient Revenue	\$ 313,970,338	
2023 Budget with 1% threshold	\$ 317,110,041	
Amount Subject to Enforcement	\$ 7,925,158	\$ 12,419,857
50% Enforcement reduction recommended by GMCB	\$ 3,962,579	\$ 6,209,929

**III. Plain Error and Insufficient Explanation: Slide 32 – RRMC Row, Column “Comm Impact%”**

The Plain Errors outlined in Sections I and II also result in inaccuracies in the "Comm Impact %" column. We object due to these errors and propose that the corrected value should reflect -2.3%. We further request clarification on the calculation methodology, as the record lacks a sufficient explanation.

**IV. Plain Error and Insufficient Explanation: Slide 34 – RRMC Row, Columns - “Enforce, Comm Rec% + Enforce”**

Due to the Plain Errors identified in Slide 32 regarding "Subject to Enforcement," "Enforcement Rec," and "Comm Impact %," the corresponding columns on Slide 34 are also incorrect and require correction. We object due to this error and propose the corrected information as outlined below. Additionally, we object to the insufficiency of explanation supporting the calculations provided for these columns.

Slide 34	Corrected	As Presented
Enforce	-2.30%	-3.70%
Comm Rec % + Enforce	0.50%	-0.80%

**V. Plain Error: Slide 34 – RRMC Row, Columns - “Comm Rec vs Requested”, “Comm rec vs Guidance”**

RRMC objects due to Plain Error. The errors in Slide 32 lead to subsequent errors in the "Comm Rec vs Requested" and "Comm Rec vs Guidance" columns on Slide 34. These columns must also be corrected as follows:

Slide 34				Corrected	As Presented
Comm Rec vs Requested				\$ 3,962,579	\$ 6,209,928
Comm Rec vs Guidance				\$ 4,949,451	\$ 7,196,800

**VI. Insufficient Rationale: Slide 35 - RRMC Row, Columns – “NPR Rec \$, NPR Rec vs. Requested, NPR Rec vs. Guidance, NPR Rec vs. Projected”**

RRMC objects for insufficient rationale and requests clarification regarding the calculations supporting these columns. The rationale remains unclear, and if the GMCB is to rely on this information, it is essential that hospitals impacted by these decisions fully understand the basis for these calculations to ensure transparency and fair recalculation.

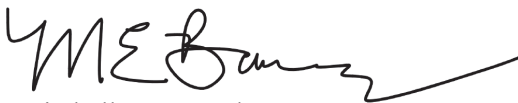
**VII. Reservation of Rights**

RRMC hereby submits a general objection to the GMCB staff’s recommendations, reserving all rights to submit further objections as new information may arise. This objection is grounded in the numerous plain errors and insufficient explanations provided. Should the GMCB accept the current staff recommendations, the decision could potentially be deemed arbitrary and capricious, as the recommendations fail to cite relevant evidence or to adequately address the facts and substantial documentation provided by RRMC in its June 12, 2024, *Formal Response to the Notice of FY 2023 Budget Violation*, the July 3, 2024, *Application for 2023 Retroactive Budget Adjustment* (including a rebase request), and the August 23, 2024, *Response to Hearing Questions*.

We are deeply concerned by these recommendations, even after accounting for the necessary corrections. The record reflects no consideration of the extensive evidence, detailed calculations, and reasonable explanations for exceeding the projected FY23 budget. While the Board emphasizes hospital sustainability, proceeding with recommendations based on erroneous or insufficiently explained facts on the record undermines this goal, placing hospitals at a substantial disadvantage by obscuring the applicable standard. We therefore preserve our right to appeal under this general objection.

We greatly appreciate you addressing these objections and correcting the record.

Respectfully,



Mitchell E. Baroody

cc: Alena Berube, Director of Health Systems Finance