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May 23, 2023

Owen Foster
Chair, Green Mountain Care Board
144 State Street
Montpelier, VT 05602

RE: Office of the Health Care Advocate Comments Regarding the Vermont Association of Hospitals and Health Systems' Request to Reconsider FY24 Hospital Budget Guidance

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

The Office of the Health Care Advocate (HCA) thanks the Green Mountain Care Board (Board) and its hospital budget staff for their careful work on the FY24 hospital budget guidance.

The HCA recommends that the Board stand by its approved guidance. The Board approved the guidance after an extended and open process in which the Vermont Association of Hospitals and Health Systems (VAHHS), the HCA, and the public fully participated. As has been previously noted, nothing prevents hospitals from proposing a budget that exceeds the guidance. Page 6 of the guidance states clearly: "If a hospital's budget exceeds the NPR/FPP [Net Patient Revenue/Fixed Prospective Payment] growth guidance, the Board will review the specifics and support for that NPR/FPP growth provided by the hospital in its FY24 budget submission using the factors and criteria set out in this guidance."¹

It is common practice for hospitals to propose budgets that exceed the guidance approved by the Board. Both by law and in practice, proposed budgets over the NPR/FPP cap have always been considered by the Board. The Board has also historically approved requests that exceed the budget guidance. Hospitals were fully aware of the non-binding nature of the budget guidance and prepared budgets for FY23 with this in mind. In FY23, when approved guidance was for hospitals to achieve an 8.6% NPR/FPP growth rate over two years, the Board approved

¹Green Mountain Care Board, *FY 2024 Hospital Budget Guidance and Reporting Requirements* 6 (Effective March 31, 2023; Updated May 8, 2023), https://gmcboard.vermont.gov/sites/gmcb/files/documents/FY24%20Guidance%20Updated%202023_05_08.pdf.

a system-wide increase of 10.1%² This action is consistent with the Board's history, in which it has given Vermont hospitals 99% of what they have requested in their budgets.³

Raising or removing the agreed upon two-year NPR cap now will have at least two troubling results. First, it will make it clear to all parties that negotiated decisions cannot be relied upon because one party may, after the fact, turn to the regulator to fundamentally alter the agreement. Second, it will set a precedent that if regulated entities make decisions that create predictable outcomes that they then later decide are problematic in the future, they can simply ask the regulator and the public to bear the costs of their decision. In sum, the amount remaining in the two-year NPR guidance for FY24 is due to VAHHS' members' choosing a certain course of action in year one. In other words, if most of a two-year target is used in year one, a small amount will remain in year two.

Vermonters should not be held financially responsible for the fact that hospitals chose to structure their budgets this way. Maintaining the guidance sends an important and needed message that there must be some limits on how much Vermonters are charged for the health care that they need.

Thank you,

The HCA Policy Team

s\ Mike Fisher, Chief Health Care Advocate

s\ Sam Peisch, Health Policy Analyst

s\ Charles Becker, Staff Attorney

s\ Eric Schultheis, Staff Attorney

² Owen Foster & Robin Lunge, *Green Mountain Care Board* 8 (Jan. 13, 2023) (presentation to Vermont House Health Care Committee), <https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Health%20Care/Orientation/W~Owen%20Foster~Green%20Mountain%20Care%20Board%20Overview~1-13-2023.pdf>.

³ Owen Foster, *Green Mountain Care Board* 18 (Jan. 27, 2023) (presentation to Vermont Senate Committee on Health and Welfare), <https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Health%20and%20Welfare/Green%20Mountain%20Care%20Board/W~Owen%20Foster~Introduction%20to%20Green%20Mountain%20Care%20Board~1-27-2023.pdf>.