

In re: University of Vermont Medical Center)
Fiscal Year 2025 Hospital Budget Decision and Order)
_____)

Docket No. 24-004-H

In re: University of Vermont Medical Center)
Fiscal Year 2024 Hospital Budget Decision and Order)
_____)

Docket No. 23-004-H

In re: University of Vermont Medical Center)
Fiscal Year 2023 Hospital Budget Decision and Order)
_____)

Docket No. 22-004-H

Settlement Agreement

The University of Vermont Medical Center, Inc. (“UVMHC”), the University of Vermont Health Network, Inc. (“UVMHN”), and the Green Mountain Care Board (“GMCB”) (collectively, the “Parties”) agree as follows:

Whereas, the Parties share a commitment to controlling the growth of healthcare expenditures while ensuring that access to quality health care is not compromised;

Whereas, in FY23, UVMHC received approximately \$80 million in unbudgeted net patient revenue (“NPR”);

Whereas, the GMCB issued an October 10, 2024 Order Correcting Budget Deviation and Denying Budget Adjustment Request (“Enforcement Order”), reducing UVMHC’s overall charges and commercial rates by approximately \$80 million to account for the FY23 overage, splitting that reduction equally between FY25 and FY26, and the first half of that reduction has already been incorporated into UVMHC’s FY25 budget;

Whereas, UVMHC has appealed that Enforcement Order, and the GMCB’s FY25 Budget Order, and those appeals are pending decision by the Vermont Superior Court and Vermont Supreme Court, respectively;

Whereas, UVMHC received approximately \$53 million in unbudgeted net patient revenue in FY24;

Whereas, two members of the GMCB, along with representatives of both UVMHC and UVMHN, have engaged in discussions intended to resolve matters related to UVMHC’s FY23 and FY24 budget overages, subject to the approval of both (a) the GMCB, after appropriate regulatory processes, and (b) the UVMHN board of trustees.

Now therefore, contingent upon those approvals, and in consideration of the mutual promises and representations contained herein, the Parties agree as follows:

Section I. UVMHN/UVMMC Obligations

UVMMC and UVMHN will take the following actions, all of which are in reliance on and in consideration of the GMCB taking actions set forth in Section II, below.

- A. UVMMC commits to fund non-hospital primary care providers in the amount of \$11 million in FY26, utilizing a legally compliant funding mechanism to be determined;
- B. UVMMC commits to pay Blue Cross Blue Shield of Vermont ("BCBS") \$12 million as part of an effort to resolve allegations of FY22 and FY23 overpayments to UVMMC. The Parties recognize that resolution will still require, among other things, for UVMMC and BCBS to agree on appropriate releases, and UVMMC and BCBS should agree on a reconciliation methodology for FY26, to avoid similar dispute in the future.
- C. UVMMC will file a proposed FY26 hospital budget that meets benchmarks in Section I of the GMCB's FY 2026 Hospital Budget Guidance & Reporting Requirements ("FY26 Guidance") and highlights those areas, if any, where the proposed budget contemplates the elimination or reduction of access to essential clinical services. The proposed budget will meet the benchmark for commercial reimbursement rate growth independent of the overall charge and commercial rate reduction of \$20,072,539 for FY26 described in Section II.B of this Agreement, the effect of which will be highlighted in UVMMC's submission. As part of its FY26 budget filing, UVMMC may ask for permission to exceed the NPR growth benchmark for certain, specific access-related purposes, which GMCB may approve or deny.
- D. After the second quarter of FY25, UVMMC will seek a mid-year reduction to its FY25 commercial rate growth, if necessary, to ensure compliance with the GMCB's FY25 budget order.
- E. UVMMC and/or UVMHN will spend up to a total of \$15 million to fund consultants, and an independent Liaison, selected and overseen as described in section III below, to help identify a path for UVMHN/UVMMC to maintain and improve access to high quality healthcare services while improving affordability for Vermonters. If the entire \$15 million is not utilized for these purposes, the GMCB may direct the use of any remaining funds to further the goals of this Agreement, after consultation with UVMHN and UVMMC.

F. If UVMHN and/or its Vermont hospitals continue to use at-risk compensation for their senior executives in FY26, at least 50% of eligibility for at-risk pay will be based on material success in the following areas, and UVMHN shall explain the rationale for any other factors it uses:

1. Reduction in ED utilization
2. NY Hospitals pay back UVMHC
3. NY Hospitals contribute equally to network margin
4. Reduction in commercial rates, and commercial revenue at, or below, 0-3.5% growth.

If the UVMHC/UVMHN boards of trustees choose to eliminate or reduce the amount of at-risk pay in FY26 for senior executives, they will also set the target for total cash compensation (base pay + variable pay) to no more than the 50th percentile of market, utilizing the same benchmark sources and methodology as relied on in FY24.

G. UVMHC stipulates to extend the briefing schedules for its FY25 budget and FY23 enforcement appeals until the GMCB and the UVMHN board of trustees formally approve or reject this settlement agreement. If both the GMCB and the UVMHN board of trustees approve this settlement agreement, UVMHC will dismiss its FY25 budget appeal and FY23 enforcement appeal within 30 days of the GMCB's approval.

Section II. GMCB Obligations

GMCB will take the following actions, all of which are in reliance on and in consideration of UVMHN and UVMHC taking the actions set forth in section I, above.

- A. The GMCB will issue an order formally declining to take enforcement action, or any other remedial or corrective action, with respect to UVMHC's FY24 net patient revenue budget overage. Such order will be issued contemporaneously with the approval of this settlement agreement, to become effective upon UVMHC's dismissal of both its pending FY23 enforcement appeal and its FY25 budget appeal.
- B. The GMCB will amend its FY23 Enforcement Order to split the remaining \$40,145,078 reduction to UVMHC's commercial NPR equally between its FY26 and FY27 hospital budgets, resulting in a \$20,072,539 reduction to commercial NPR for each budget order, to be applied to the approved commercial rate for each year. Such order will be issued contemporaneously with the approval of this settlement agreement, to become effective upon UVMHC's dismissal of both its pending FY23 enforcement appeal and its FY25 budget appeal.

Section III. Consultant Selection, Scope of Work, and Project Coordination.

In order to ensure communication, transparency, and alignment between the Parties with respect to the consultants' work, the Parties will create a workgroup to coordinate the consultant(s) funded through Section I.F, as follows:

- A. The workgroup will be comprised of two GMCB members or their designees; one designee from the UVMHC board of trustees; one designee from the UVMHN board of trustees; and an independent Liaison (described below). The workgroup may elect a Chair from among the workgroup.
- B. The workgroup will be responsible for creating, distributing, and evaluating RFPs and selecting consultant(s); prioritizing and refining the consultant(s) scope of work, overseeing the timeline, and deliverables; facilitating information flow between UVMHN, UVMHC, and the consultants, where necessary; and reviewing the consultants' recommendations and creating joint report(s) to the Parties.
- C. The consultant(s)' scope of work may include the following, as refined and prioritized by the workgroup and consultant(s):
 1. Administrative and Shared Service Expense Review: Identify administrative and shared service cost opportunities at UVMHC and across the Network, prioritizing necessary expenditures, and removing waste or investments that are not in the best interest of Vermonters.
 2. Provider Productivity and Efficiency Review, including:
 - a. Clinical effort, scheduling efficiency, and relationship between clinical productivity and provider compensation.
 - b. Academic effort for research, graduate medical education, or undergraduate medical education.
 - c. Administrative effort for Chair, Vice Chair, Division Chief, Site Leader, Medical Director, Quality Director, or other codified roles.
 - d. Clinical effort that is outside of UVMHN Vermont hospitals, including New York clinical effort and effort contracted to outside entities.
 3. Service Line Review: Evaluate patient need, contribution to margin, payer mix, productivity, operational efficiency, and cost allocation, by service line, to assess opportunities for mission driven service line optimization.
 4. UVMHN New York Hospitals: Evaluate financial, operational, quality and access impact of financial and clinical support to NY hospitals, use of shared services at NY hospitals, and NY hospital impact on network margins.
 5. Health System Footprint: Evaluate the current Network footprint, including hospitals, outpatient, and other ancillary services, to identify services that can be performed by other providers and/or other UVMHN entities more efficiently.
 6. Enterprise Efficiency: Assess cost and efficiency metrics across the Network to measure achievement (or potential to achieve) economies of scale; evaluate effectiveness across clinical operations (e.g., length of stay, OR utilization, ED

utilization), capital productivity (e.g., imaging utilization), scheduling, and OR turnover.

7. Governance Review: Assess the governance structure of UVMHN and its affiliate boards to ensure a well-balanced approach that allows for local decision-making and responsiveness to community needs while upholding fiduciary responsibility to safeguard the Network's financial health.
 8. Other Areas of Review: The workgroup may choose, for the purpose of furthering the goals of this Agreement, to expand the consultant(s)' scope of work to include areas of review not enumerated herein.
- D. The workgroup will seek to operate by consensus. To the extent the workgroup cannot unanimously agree on a decision, each member shall have one vote.
- E. The workgroup will agree to a policy of confidentiality to the extent consistent with Vermont public meetings and access to public records laws.
- F. Independent Liaison: The GMCB will select an independent Liaison to assist the workgroup in carrying out its responsibilities. The independent Liaison may choose to hire one or two professionals to provide additional needed expertise, including hospital operational and/or financial experience. UVMHC and UVMHN may make recommendations as to the selection of the independent Liaison and the other professionals. The independent Liaison and other professionals will receive reasonable compensation to be drawn from \$15M pool. The independent Liaison and other professionals will have no media communications unless specifically authorized by the workgroup. The independent Liaison will:
1. Serve on the workgroup as set forth above;
 2. Together with the workgroup, direct, oversee, and review the work of the retained consultants;
 3. Review and opine to the workgroup on UVMHN hospital budget submissions and compliance with budget orders; and
 4. Review and opine to the GMCB, UVMHN and UVMHC boards on material UVMHN and UVMHC operations and management decisions, including funds flow to New York, capital investment, service line changes, communications, and executive compensation.
- G. The workgroup and independent Liaison will exist for sixteen months or until the consultants submit their reports, whichever is later. After that, the Parties will return to the generally applicable processes set forth in statute and rule for sharing information.
- H. Except as specifically stated herein, nothing in this agreement shall be construed to limit or expand the lawful authority of the GMCB or of UVMHN's and UVMHC's

management or governance bodies. Specifically, UVMHN and UVMMC will retain final decision-making authority regarding implementation of consultants' recommendations, and all other UVMHN or UVMMC operational, budgeting, or management and governance decisions, and the GMCB will retain regulatory authority as set forth in statute and rule. To the extent the Liaison disagrees with decisions by UVMHN or UVMMC, the Liaison may advise UVMHN and UVMMC boards, the workgroup, and GMCB of any different view and rationale therefore.

Section IV. General Provisions

- A. This settlement agreement is expressly conditioned upon the GMCB and the UVMHN board of trustees' acceptance of all of its provisions, without change or condition.
- B. In the event that performance of any of the provision of this agreement becomes impossible, the Parties will seek to modify the agreement as necessary to achieve its intended purposes, as close as possible under the circumstances. In the event the Parties are unable to reach an agreement, the aggrieved Party may terminate the agreement on 30 days written notice. Upon such termination, each Party will have the same rights it would have had absent the agreement, provided, however, that in the event of any subsequent GMCB budget enforcement action with respect to UVMMC's FY24 overage, the remedy will be limited to the total amount of money UVMMC has committed to spend pursuant to this Agreement, minus any money already expended pursuant to this Agreement.
- C. This agreement is governed by Vermont law, and any disputes under the Agreement will be adjudicated by the Vermont Superior Court. If any Party believes the other is in breach of its obligations under the Agreement, it will provide the other with written notice of the alleged breach, and the other party will have 30 days to cure the alleged breach prior to either party initiating legal action to address it. During that 30 day period, the parties will meet and confer in an effort to resolve their dispute. In the event either party is determined by the court to be in breach of its obligations under this agreement, the non-breaching party may (but need not) terminate the agreement, and upon termination each Party will have the same rights it would have had absent the agreement, provided, however, that in the event of any subsequent GMCB budget enforcement action with respect to UVMMC's FY24 overage, the remedy for that overage will be limited to the total amount of the FY24 NPR overage, minus any money already expended pursuant to this agreement.



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