

Certificate of Need Bulletin 002

Procedure and Guidance for Emergency Certificate of Need Applications to Respond to the COVID-19 Pandemic

On Friday, March 13, 2020, Governor Scott declared a state of emergency for Vermont in response to the COVID-19 pandemic. In this bulletin, the Green Mountain Care Board (GMCB), acting pursuant to 18 V.S.A. § 9440(e) and GMCB Rule 4.000, §§ 4.303 and 4.800, establishes procedures that will apply to applications for an emergency certificate of need for any new health care project that will support or enhance the State's ability to manage this declared public health emergency.

Determination that COVID-19 Projects Require Emergency Review

The GMCB has determined that new health care projects which enhance or support the State's ability to respond to the COVID-19 public health emergency require action in less time than a normal review would require and, based on the circumstances, is exercising its discretion to review applications for such projects without notice and opportunity for public hearing or intervention by any party.

Procedures for Review of Emergency CON Applications for COVID-19 Projects

An applicant seeking an emergency certificate of need for a project that supports the State's ability to manage the COVID-19 public health emergency must submit to the GMCB a letter containing the following:

- 1) The name of the Applicant and the name, mailing address, email address, and telephone number(s) of the individual that will serve as the Applicant's point of contact .
- 2) A description of the project that specifies:
 - a. the need that the project will meet and why it is appropriate that the Applicant meet that need, such as:
 - i. how the project will support or enhance the State's ability to manage the COVID-19 public health emergency;
 - ii. how the project will support the public's access to services for evaluation or treatment of COVID-19; or
 - iii. how the project meets any other emergency need related to the COVID-19 public health emergency.
 - b. how the project will interact with other ongoing or planned efforts to manage the COVID-19 public health emergency, if applicable;
 - c. the estimated cost of the project and funding source, if known;
 - d. the start date and expected completion date of the project and the resources needed to complete project, if known; and



- e. the expected or potential use of the equipment, space, beds, etc. following the public health emergency, if known.
- 3) An attestation that the project is intended to respond to and enhance the management of the COVID-19 public health emergency.

The GMCB or a designee will review the application and determine whether additional information is needed within twenty-four hours. The GMCB may allow the project to move forward pending review if it determines the project is likely to be approved.

The GMCB will review the application without notice and opportunity for a public hearing or intervention by any party. The GMCB will issue a verbal decision within twenty-four hours of receiving a complete application. The GMCB will issue a written decision within five business days of receiving a complete application.

Unless specified otherwise by the GMCB, emergency certificates of need granted pursuant to the process described above shall only be effective until the public health emergency is lifted. Thereafter, an Applicant wishing to continue to use any equipment or operate any facility or service for which the emergency certificate of need was granted must file a certificate of need application pursuant to non-emergency procedures. Unless specified otherwise by the GMCB, the Applicant may continue to use the equipment or operate the facility or service while the GMCB reviews the application under non-emergency procedures.

For any questions please contact Donna Jerry, Senior Health Policy Analyst, at 802-828-2918 or donna.jerry@vermont.gov. You may also contact Michael Barber, General Counsel, at 802-585-4829 or michael.barber@vermont.gov.

Dated: March 25, 2020 at Montpelier, Vermont.

s/ Kevin Mullin, Chair)
) GREEN MOUNTAIN
s/ Jessica Holmes) CARE BOARD
) OF VERMONT
s/ Robin Lunge)
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s/ Tom Pelham)
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s/ Maureen Usifer)

