

**STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD**

In re: Application of University of Vermont )  
Medical Center, ) GMCB-001-19con  
Replacement Building for Essex )  
Adult Primary Care )  
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**STATEMENT OF DECISION AND ORDER**

Introduction

In this Decision and Order, we review the application of the University of Vermont Medical Center (UVMMC or the applicant) for a certificate of need to purchase 5.2 acres of land located at 2 Essex Way in Essex Center to construct a replacement building for UVMMC's Essex Adult Primary Care for a total cost of \$8,615,297.

For the reasons set forth below, we approve the application and issue the applicant a certificate of need, subject to the conditions set forth therein.

Procedural Background

On January 11, 2019, UVMMC filed a certificate of need (CON) application and request for expedited review; the Board granted expedited review on January 17, 2019 pending public notice and any requests for intervention. On February 1, 2019, the Office of the Health Care Advocate (HCA) filed a Notice of Intervention with the Green Mountain Care Board (GMCB). On March 26, 2019, the HCA waived the requirement for a hearing as allowed in 18 V.S.A. § 9449(5)(C)(i). The Board requested that the applicant provide additional information regarding the project on February 7 and March 12, 2019, which UVMMC provided on February 21 and March 19, 2019, respectively. The application was closed on April 3, 2019. On April 15, 2019, the HCA submitted comment within the required period following closure of the application. In that letter the HCA requested that the Board consider requiring UVMMC's Essex Adult Family Care practitioners to certify that they will accept patients without regard to payer type, insurance status, or their ability to pay for services.

Jurisdiction

The Board has jurisdiction over this matter pursuant to 18 V.S.A. § 9375(b)(1) and 18 V.S.A. § 9434(b)(1).

Findings of Fact

1. UVMMC has ten primary care practices which include adult primary care, family medicine and pediatrics. Essex Adult Primary Care (Essex APC) is one of four practices dedicated to adult primary care. UVMMC seeks to replace the existing Essex APC building

located in leased space at 87 Main Street in Essex Junction by purchasing land and constructing a new 12,500 square foot building, which it will own, at the corner of Route 15 and 2 Essex Way in Essex Center. Application (App.) at 1-2, 6.

2. The current Essex APC space is undersized (6,500 square feet), and expansion at the current site is not possible to meet current and projected demand for on-site integrated primary care services. Replacing Essex APC has been a priority for several years, due to the age of the current building (UVMHC has leased this space since 1985), inadequate space, high demand for more primary care, and the inadequacy of the patient care environment that does not support population health management and a medical home model of operation. App. at 1, 3, 5. The new building will be approximately twice the size of the current leased building with more exam rooms and patient care slots to accommodate a broader range of patient care options, including a virtual exam room, telemedicine, educational space, a consult room and a bariatric room. App. at 1, 5, 8.<sup>1</sup>

3. Access to primary care practices is a fundamental component of Vermont's focus on health promotion and plays a vital role in population health management and treatment and prevention of chronic disease. Essex APC is currently a closed practice as its providers do not have the capacity to add new patients due in large part to the physical constraints of the existing space. During the past five years, volumes have remained relatively flat due to inadequate space and inefficient building layout that does not meet current patient care standards. App. at 3.

4. To assess the need for primary care services, UVMHC conducted a comprehensive, population-based analysis of primary care supply and demand in its service area including: 1) a population-based forecast through FY 2027; 2) demand for adult primary care services during this timeframe; 3) current and projected primary care workforce in UVMHC's service area, including both employed and independent providers, predicting retirements based on the age of the workforce; and 4) the number of new primary care providers that will be needed to meet future demand. App. at 18.

5. The majority of Essex APC patients reside in Essex, Essex Junction, Jericho, Colchester and South Burlington. UVMHC's market, volume and capacity conclusions show that the Essex market is aging; there is a shortage of primary care providers in Chittenden and Grand Isle counties; demand for evaluation and management visits is growing in the Essex market area; by Year 5 patient visits are projected to be between 19,744 and 23,579 visits per year; by year 2022 approximately 7% of evaluation and management visits will shift from office-based to alternative care settings such as virtual health. Projections assume that all providers will reach a panel size of 1,153 patients per one clinical FTE. App. at 4-5.

6. The design of the new building facilitates increased capacity for primary care visits from approximately 14,500 patient visits in FY 2017 to 21,400 visits by year 2022. App. at 18. The new building as built, can accommodate up to 25,000 patient visits annually with up to 35,000

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<sup>1</sup> The applicant's overall site plan (SP-0) notes an area reserved for development of a photovoltaic array; any such development is outside the scope of the project approved by this CON. Prior to any development, the applicant must notify the Board so the Board may determine whether further review is required.

annually as the building is designed to accommodate an additional eight exam rooms if they are needed at a future date.<sup>2</sup> App. at 2, 7 and Response to Questions (Resp.) (Feb. 21, 2019) at 1-2.

7. The new building will include 14 exam rooms, consultation and multi-purpose spaces to support team-based approaches to the delivery of primary care, health and wellness and other population health services. Providers have the capacity to be connected digitally to patients at home if this option is desired by the patient. App. at 6. The shared office and work spaces maximize flexibility. The building design separates care delivery space from public and administrative support areas to maximize patient privacy and patient flow. The design of the building also features a separate entrance for employees, locker space, showers and lactation room. App. at 7-8.

8. The project enhances care coordination and facilitates broader access to health care services at one location. App. at 13. A multi-disciplinary care team will replace the single-provider approach to care in meeting the needs of patients. The team includes advanced practice providers and other ancillary providers who will be co-located within the facility. Ancillary providers include social workers, dietitians, psychiatrists and wellness coaches. App. at 9. In addition, the new facility will accommodate mental health providers — allowing for medication, case or care management and individual and group counseling to be provided on site at one convenient location. App. at 9-11, 19-21. The new building will allow the addition of clinical staff to accommodate more patient visits, is designed to meet standards for a Patient-Centered Medical Home, and allows for a team-based care model. App. at 1-2, 19; Resp. (Feb. 21, 2019) at 2.

9. The building is designed to meet or exceed the 2015 Vermont Commercial Building Energy Standards and will seek LEED certification and be designed to an Energy Star standard App. at 17. LED lighting will be used in conjunction with high efficiency heating and cooling systems. Energy modeling software will be employed to validate the overall energy performance of the building. App. at 17.

10. The design of the new building will meet or exceed all applicable Guidelines for Design and Construction of Health Care Facilities (FGI Guidelines) as certified by the architect. App. at 18 and Resp. (Mar. 19, 2019) at Exhibit 1. As the facility will be accredited by the Joint Commission, FGI Guidelines must be met as part of that accreditation process.

11. Other than replacement of hardware such as computers and printers, no new purchase or licensing of additional health care information technology will be made for the new facility. The applicant will use the existing Epic electronic medical record system. Resp. (Feb. 21, 2019) at 3.

12. The new location on Essex Way is served by Green Mountain Transit and a bus stop will be located in front of the newly constructed building. Walkways will be constructed to connect the bus stop to the entrance of the building. Resp. (Mar. 19, 2019) at 3.

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<sup>2</sup> The additional eight exam rooms that may be added at a later date are outside the scope of the project approved by this CON.

13. The project cost is \$8, 615,297, which includes all construction, equipment and information technology costs, will be depreciated over 20 years. The project shows a negative margin in Years 1 (-\$679,893) and 2 (-\$37,820), turning positive in Year 3 (\$42,236). The negative margin is primarily due to depreciation costs, a non-cash expense, which is as high as \$560,000 annually until year 7, when the IT and equipment assets are fully depreciated and due to the loss of provider-based annual billing revenue of \$215,888 related to the relocation of the facility. App. at 11-13.

14. The project was included in UVMMC's hospital budget submissions for \$5 million in 2017, \$7.7 million in 2018 and \$8.8 million in 2019. 2017-2019 Hospital budget submissions.

15. UVMMC will finance the project with working capital. However, upon approval of the project, UVMMC may select other more favorable financing if such an option is available and does not increase the cost of the project. App. at 2 and Table 2. Construction for the project is expected to begin in mid-October of 2019 with opening of the facility to patients on December of 2019. Resp. (Mar. 19, 2019) at 2.

16. UVMMC is expecting a slight increase, less than 0.1%, in Net Patient Revenue (NPR), due to the increase in primary care utilization facilitated by the project. Hospital Budget Staff Analysis Memo (Feb. 21, 2019) at 1. UVMMC does not expect any change in charges as a result of this project. Resp. (Mar. 19, 2019) at 2. Payer mix remains relatively the same for 2017-2022. Resp. (Mar. 19, 2019) at 2.

#### Standard of Review

Vermont's CON process is governed by 18 V.S.A. §§ 9431-9446 and Green Mountain Care Board Rule 4.000 (Certificate of Need). An applicant bears the burden to demonstrate that each of the criteria set forth in 18 V.S.A. § 9437 is met. Rule 4.000, § 4.302(3).

#### Conclusions of Law

##### I.

Under the first statutory criterion, the applicant must show that the application aligns with statewide health care reform goals and principles because the project takes into consideration health care payment and delivery system reform initiatives; addresses current and future community needs in a manner that balances statewide needs (if applicable); and is consistent with appropriate allocation of health care resources, including appropriate utilization of services, as identified in the HRAP pursuant to section 18 V.S.A. §9405.

We conclude that the application meets this criterion, and aligns with statewide health care reform goals and principles. This project is focused on expanding and improving primary care services to patients served by Essex APC. The project significantly expands primary care services through the construction of the new facility designed to enhance the patient-centered medical home model of operations, which includes hiring additional clinical staff and an integrated care team of providers including nutrition and mental health providers, allowing Essex

APC to meet future demand for primary care services for residents in its service area. Findings of Fact (Findings) ¶¶ 2-3, 6-8. We further note that UVMHC participates in statewide health care reform efforts including OneCare Vermont, an Accountable Care Organization,<sup>3</sup> and the All Payer Model, which emphasize coordinated care and keeping patients well. Furthermore, we find this project is consistent with one of the All Payer Model's three population health goals – increasing access to primary care.

The application is also consistent with the HRAP, which identifies needs in Vermont's health care system, resources to address those needs, and priorities for addressing them on a statewide basis. 18 V.S.A. § 9437(1). Although not updated since 2009—the HRAP is currently being revised—the applicant has demonstrated that this project is consistent with the relevant HRAP standards.<sup>4</sup> *See* HRAP Standard (Standard) 1.6 (applicant will collect and monitor data relating to quality and outcomes related to the proposed new project); Standard 1.7 (applicant has explained how the project is consistent with evidence-based practice); Standard 1.8 (applicant shall demonstrate that it has a comprehensive evidence-based system for controlling infectious disease; Standards 1.9, 1.10, 1.11, 1.12 (project is cost-effective, energy efficient, conforms with applicable FGI Guidelines, and new construction is more appropriate compared to renovation); Standard 2.1 (applicant has explained how the project expands, promotes or enhances primary care capacity); Standard 2.2 (applicant has showed how physician-based office services are consistent with Vermont's focus on health promotion); 3.4 (project has been included in hospital budget submissions); Standard 4.4 (applicant has explained how the project is consistent with the Department of Health's recommendations for effective substance use disorder treatment); and Standard 4.5 (project supports further integration of mental health, substance use disorder and other health care services).

Based on the above, we conclude that the applicant has met the first criterion.

## II.

Under the second criterion, an applicant must demonstrate that the project cost is reasonable because the applicant's financial condition will sustain any financial burden likely to result from completion of the project, and that the project will not result in an undue increase in the costs of medical care or an undue impact on the affordability of medical care for consumers. The Board must consider and weigh relevant factors “including the financial implications of the project on hospitals and other clinical settings, including the impact on their services, expenditures and charges [and whether such impact] is outweighed by the benefit of the project to the public.” The applicant must show that less expensive alternatives do not exist, would be unsatisfactory, or are not feasible or appropriate; and if applicable, that the project has incorporated appropriate energy efficiency measures.” 18 V.S.A. § 9437(2) (A-D).

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<sup>3</sup> *See, e.g.*, <https://www.uvmhealth.org/medcenter/pages/about-uvm-medical-center/partnerships/accountable-care.aspx>; <https://onecarevt.org/ModelsOfCare>.

<sup>4</sup> The Vermont legislature in Act 167 (2018) made several changes to the State's CON law. *See* <https://legislature.vermont.gov/assets/Documents/2018/Docs/ACTS/ACT167/ACT167%20As%20Enacted.pdf>. As amended by Act 167, 18 V.S.A. § 9437(1)(C) continues to reference the Health Resource Allocation Plan (HRAP), which is in the process of being updated. In the interim, we consider the current applicable HRAP standards will apply.

After reviewing the record, we believe that the project's total cost of \$8,615,297 for a replacement building to house Essex APC is reasonable given the significant need for primary care in its service area. The project will not create a financial burden to the applicant, which intends to finance the project with existing capital or may select other more favorable financing with no increase in project cost, if such an option is available at the time the application is approved. Finding ¶¶ 13, 14, 15.

We further find that the project will not unduly increase the costs of care or unduly impact the affordability of care for consumers. As background, replacing Essex APC has been a priority for several years, as the limitations in the size of the existing structure cannot support existing or future increased demand for integrated primary care and the patient care environment does not support population health management and a medical home model of operations. Essex APC is currently a closed practice as the layout of the facility cannot accommodate more patient visits. Findings ¶¶ 2, 3. The new building will be approximately twice the size of the current leased building with more exam rooms and patient care slots to accommodate a broader range of patient care options, including a virtual exam room, telemedicine, educational space, a consult room and a bariatric room. Findings ¶ 2.

The applicant does not expect any change in charges as a result of the project. The project will cause a slight increase, less than 0.1%, in Net Patient Revenue (NPR), due to the increase in primary care utilization facilitated by the project which is reasonable as the necessary increase in access to primary care services is outweighed by this slight increase in NPR. Findings ¶ 16. Payer mix remains relatively the same for 2017-2022. *Id.*

Lastly, we find that the overall financial impacts of the project are outweighed by the benefit of the project to the public. The expansion will provide patients in its service area increased access to integrated primary care services, improving patient outcomes and satisfaction. Findings ¶¶ 4-8. Staffing will increase to meet increased demand in the need for integrated primary care services. Finding ¶ 8. We are also persuaded that there are no viable, cost-effective alternatives to the project; the current building is no longer adequate to accommodate patient need and options for expansion on the site are not possible. Findings ¶¶ 2, 8. We find that the applicant has incorporated appropriate energy efficiency measures. Findings ¶ 9.

We conclude that the applicant has demonstrated that the cost is reasonable and has satisfied the second criterion.

### III.

Under the third criterion, the applicant must show that “there is an identifiable, existing, or reasonably anticipated need for the proposed project that is appropriate for the applicant to provide.” 18 V.S.A. § 9437(3).

Again, this project has been planned for several years and entails the replacement of an existing building that cannot be expanded to accommodate more patient visits, meet standards for a Patient Centered Medical Home, promote a team-based care model, or accommodate space

for virtual exam rooms, telemedicine, mental health, community and educational activities. The project does, however, significantly expand critically needed integrated primary care services. Findings ¶¶ 2, 4-6. As noted above, the current practices are closed at this location as providers do not have the capacity to add new patients due in large part to the physical constraints of the existing space. Findings ¶ 3. During the past five years, volumes have remained relatively flat due to inadequate space and inefficient layout that does not meet current patient care standards. Findings ¶¶ 2, 3.

Based on these facts, we conclude that applicant has satisfied the third criterion.

#### IV.

The fourth criterion requires that the applicant demonstrate that the proposed project will improve the quality of health care in Vermont, provide greater access to health care for Vermonters, or both. 18 V.S.A. § 9437(4).

As already discussed, the serious limitations of the space, resulting in practices that are closed and the need for integration of diverse practitioners at one location, does not support population health management and a medical home model of operations. The new building, twice the size of the existing one, will substantially increase access to integrated primary care services, access to a broader range of providers at one convenient site, and provide an option for telemedicine and space for virtual exam rooms, decreasing patient travel time. Findings ¶¶ 2-3, 7-8. We find that the project will improve access, quality, and patient satisfaction and outcomes.

We therefore find that the applicant has met this criterion.

#### V.

The fifth criterion requires that the applicant demonstrate that the project will not have an undue adverse impact on any other services it offers. 8 V.S.A. § 9737(5). As noted above, the project is a necessary replacement of primary care space that is not designed to accommodate more patients nor the current model of the delivery of integrated primary care services to meet existing and future need for adult primary care, especially as the population ages in place. The service is not new and will not have an undue adverse impact on any other services offered by UVMHC. Finding ¶¶ 2-3, 6. The project ensures that integrated primary care services will be available to patients in this service area. Findings ¶¶ 5-8. Given that the project does not negatively impact the hospital or any other services it provides, but simply expands access to essential primary care services, we find that the criterion has been satisfied.

#### VI.

The sixth criterion was repealed during the 2018 legislative session. *See* 18 V.S.A. § 9437(6) (repealed).

#### VII.

The seventh criterion requires that the applicant adequately consider the availability of affordable, accessible transportation services to the facility, if applicable. The new location on Essex Way is served by Green Mountain Transit and a bus stop will be located in front of the newly constructed building. Walkways will be constructed to connect the bus stop to the entrance of the building. Findings ¶ 12. As such, we find that this criterion has been satisfied.

VIII.

Next, if the application is for the purchase or lease of new Health Care Information Technology, it must conform to the Health Information Technology Plan established under section 18 V.S.A. 9351 (8). Other than replacement of hardware such as computers and printers, no new purchase or licensing of additional health care information technology will be made for the new facility. Findings ¶ 11. The Essex Adult Primary Care facility will use the existing Epic electronic medical record system. *Id.* The criterion is not applicable to this project.

IX.

Last, the applicant must show the project will support equal access to appropriate mental health care that meets the Institute of Medicine’s triple aims. 18 V.S.A. § 9437(9). The project incorporates all ancillary services including mental health providers located on site as an integral part of the care team ensuring that patients have access at one convenient location to physical and mental health services as well as referrals. Findings ¶ 7-8. The criterion is therefore met.

Conclusion

Based on the above, we conclude that the applicant has demonstrated that it has met each of the required statutory criterion under 18 V.S.A. § 9437. We therefore approve the application and issue a certificate of need, subject to the conditions outlined therein.

**SO ORDERED.**

Dated: May 31, 2019 at Montpelier, Vermont.

s/ Kevin Mullin, Chair )  
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s/ Jessica Holmes )  
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s/ Robin Lunge )  
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s/ Tom Pelham )  
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s/ Maureen Usifer )

GREEN MOUNTAIN  
CARE BOARD  
OF VERMONT

Filed: May 31, 2019

Attest: Jean Stetter, Administrative Services Director