

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: University of Vermont Medical Center)
Expansion of Electronic Health Record) GMCB-001-17con
To Two Additional New York Hospitals)
_____)

REVISED CERTIFICATE OF NEED

Pursuant to 18 V.S.A. § 9444(b) and Rule 4.000, section 4.600(4), the Green Mountain Care Board (Board) is revising the certificate of need issued on January 5, 2018 in this docket (Original CON) to permit the University of Vermont Medical Center to expand implementation of the Epic system to Alice Hyde Medical Center and Elizabethtown Community Hospital. The Board issues this revised certificate of need (Revised CON) based on the Findings of Fact and Conclusions of Law in the Statements of Decision issued today and on January 5, 2018 in this docket, and incorporated herein, and subject to the conditions set forth below.

Expanded Project Description and Scope

On January 5, 2018, the Board issued the Original CON to the University of Vermont Medical Center (UVMMC or “applicant”) to allow UVMMC to replace the electronic health record (EHR) and related health information technology systems at four University of Vermont Health Network (UVMHN) affiliate hospitals—the University of Vermont Medical Center, Central Vermont Medical Center, Porter Medical Center, and Champlain Valley Physicians Hospital—with a unified platform to be purchased from Epic Systems Corporation (Epic). The total cost of ownership (TCO) was to be \$151,693,203.

The applicant seeks to expand implementation of the Epic system to the two remaining UVMHN hospitals, Alice Hyde Medical Center (AHMC) and Elizabethtown Community Hospital (ECH), for an additional capital cost of \$16 million and an additional net operating cost of \$4.1 million over the course of the implementation period. The TCO for implementing the Epic system at all six UVMHN affiliate hospitals (Expanded EHR Replacement Project or “expanded project”) is \$174,586,254.

The expanded project is outlined in greater detail in the Applicant’s CON applications, the Board’s Statement of Decision and Order issued today, the Board’s Statement of Decision and Order issued on January 5, 2018, and other materials submitted in this docket.

Revised CON Conditions

The expanded project, as proposed, and subject to the following conditions,¹ meets the statutory criteria set forth in 18 V.S.A. § 9437:

1. The applicant shall develop and operate the expanded project in strict compliance with its scope as described in its Original CON and Revised CON applications, in other materials in the record submitted by the applicant, and in strict conformance with the Statement of Decision and Order issued today and the Statement of Decision and Order issued on January 5, 2018 in this docket. This Revised CON is limited to the Expanded EHR Replacement project and activities included therein.
2. Throughout the expansion project's implementation period as set forth in Condition 11 below, the applicant shall comply with all current and future financial growth caps, targets and other conditions imposed by the Board in its hospital budget instructions, guidance and orders.
3. The applicant shall not increase its commercial rates to fund any expenses related to project costs, including, but not limited to, project cost overruns.
4. The applicant shall protect the confidentiality, integrity, and availability of protected health information by instituting and maintaining policies and procedures that comply, at a minimum, with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and which require adherence to best practices for safeguarding confidential medical information.
5. The applicant shall engage in a collaborative process with independent medical professionals, providers, practices and federally qualified health centers to work towards improving patient medical record communications between UVM Health Network and non-Network providers.
6. The applicant shall pursue negotiations with Epic to attain subscription pricing for non-Network providers, practices and federally qualified health centers that wish to connect to the applicant's Epic platform, that is based on volumes and practice size and is consistent with other Epic implementations and industry standards.
7. The applicant shall incorporate within the Epic system, and make available to system users, appropriate decisional tools (*Choosing Wisely*, for example) that advance recommended care protocols and best practices which can improve patient care, care coordination, health outcomes and reduce the incidence of wasteful, harmful, and unnecessary provision of care.
8. The use of the approximately \$16.4 million set aside by the applicant for contingencies is restricted to cover unanticipated increases in project costs, and may not be used to enlarge the scope of the project.

¹ The conditions in this Revised CON largely mirror those in the Original CON. Exceptions are underlined.

9. Consistent with its representations in the application and at the Original CON hearing, the applicant shall not make any incentive payments or pay bonuses in connection with the Board's approval of the project² to any UVMMC or UVM Health Network employee.
10. The applicant shall file implementation reports with the Board beginning three (3) months from the date of this Revised CON and at six-month intervals thereafter until all components and phases of the expanded project are complete and fully operational and all invoices have been paid. The implementation reports shall include the following:
 - a. Overview of the expanded project, including information and analysis demonstrating that the project fully complies with its scope as described in the Original CON and Revised CON applications, in other materials in the record submitted by the applicant, and in the Statements of Decision and Orders issued in this docket;
 - b. The subscription costs incurred by each of the six hospitals and practices that will access the Epic system pursuant to this certificate of need, the corresponding usage (volume) on which such costs are based, and confirmation that the allocation among the hospitals and practices is proportional and equitable;
 - c. A description of decisional tools included with and/or built into the Epic system, as described in Condition 7, above, and supporting data and/or measures indicating whether use of such tools has improved patient care, care coordination and outcomes, and reduced the provision of wasteful, harmful or unnecessary medical services;
 - d. Supporting data and/or measures indicating the impact of the expanded project on provider administrative burden;
 - e. A narrative detailing all meetings held, and progress made, regarding improvements in medical records communications as described in Condition 5, above;
 - f. A narrative detailing progress made in negotiations with Epic regarding subscription pricing, as described in Condition 6, above;
 - g. A spreadsheet listing each individual line item expenditure, and for each expenditure: 1) the total amount approved by the Board; 2) the total dollar amount spent through previous reporting periods; 3) the dollar amount spent on the line item during the reporting period; 4) the cumulative dollar amount spent on the line item to date; 5) the amount remaining in dollars, and 6) the amount remaining as a percentage;
 - h. A narrative explaining any allocations from contingency funds to project line items and a summary of ongoing Capital Contingency and Operating

² See Order Clarifying Certificate of Need (Jan. 14, 2020).

Contingency Requests for all six hospitals in the same format as reported under the Original CON (See, e.g., Jan. 31, 2020 Implementation Report, 7-12);

- i. An updated multi-year projection by line item, by year, including a cumulative total column and an original budget column; and
- j. Any changes in the financing of the expanded project from the financing described in the Original or Revised CON application materials.

11. The expanded project shall be fully implemented within five (5) years of the date of issuance of this Revised CON.
12. Noncompliance with any provision of this revised certificate of need or with applicable ordinances, rules, laws and regulations constitutes a violation of this revised certificate of need and may be cause for enforcement action pursuant to 18 V.S.A. §§ 9445, 9374(i), (j), and any other applicable law.
13. This revised certificate of need is not transferable or assignable and is issued only for the premises and entity named in the application.
14. If the applicant contemplates or becomes aware of a nonmaterial change, as defined in 18 V.S.A. § 9432(12), or a material change as defined in 18 V.S.A. § 9432(11), to the scope or cost of the expanded project described in its application and as designated in this revised certificate of need, the applicant shall file a notice of such change immediately with the Board. The Board shall thereafter advise the applicant whether the proposed change is subject to additional review.
15. The Board may, after the applicant is provided notice and an opportunity to be heard, make such further orders as are necessary or desirable to accomplish the purposes of this revised certificate of need and to ensure compliance with its terms and conditions.
16. All reports, notices, forms, information or submissions of any kind required to be submitted to the Board as a condition of this revised certificate of need shall be signed and verified by the applicant's chief executive officer, or by his or her designated representative.

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17. The conditions contained in this revised certificate of need shall remain in effect for the duration of the reporting period set forth in Condition 11, above.

SO ORDERED.

Dated: April 30, 2020 at Montpelier, Vermont.

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

Filed: April 30, 2020

Attest: /s/ Jean Stetter, Administrative Services Director