

**STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD**

In re: Application of Rutland Regional Medical )  
Center, Replacement of ) GMCB-019-18con  
CT Scanner )  
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**STATEMENT OF DECISION AND ORDER**

Introduction

In this Decision and Order, we review the application of the Rutland Regional Medical Center (RRMC, or the applicant) for a certificate of need to replace the current GE VCT 64-slice CT scanner and make related renovations to accommodate new equipment, for a total cost of \$2,024,027.

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 September 24, 2018, RRMC filed a certificate of need (CON) application and request for expedited review, which the Board granted on September 27, 2018. The Board requested that the applicant provide additional information regarding the project on October 1 and November 9, 2018 and January 11 and 14, 2019, which RRMC provided on October 15 and December 13, 2018, and January 9 and 16, 2019, respectively. The application was closed on January 18, 2019.

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. RRMC seeks to replace its eleven-year old GE VCT 64-slice CT scanner with a GE Revolution ES 64-slice CT scanner and make renovations to accommodate the new equipment. Application (App.) at 1-2.

2. CT imaging is a core clinical and essential diagnostic tool used at RRMC by primary care physicians, specialists, Emergency Department (ED) physicians and Hospitalists for clinical care management. CT imaging also supports treatment planning for RRMC's radiation therapy program and is used for many presenting conditions including triaging ED patient blunt force trauma, stroke evaluation, and pulmonary emboli.

3. Data collected by the Vermont Association of Hospitals and Health Systems shows that CT utilization in Rutland County for 2017 was approximately 34 scans per 1,000 residents, falling slightly above the state's mid-point. App. at 4. The applicant projects that its CT utilization will increase by 4.23% from Budget 2018 to Projected 2018, and will thereafter remain level in Projected Years 1-3 at 12,404 scans annually. Response to Questions (Resp.) (Dec. 13, 2018) at 1.

4. Because of its use for emergent, urgent and routine testing services, the applicant requires that its CT scanner work properly and be available for around-the-clock usage. The current scanner has reached the end of its useful life, and since January 24, 2018, the current scanner has needed extensive maintenance and repair, resulting in 74 hours of downtime on twelve different dates. When the scanner is inoperable, RRMC must transfer emergent patients to other facilities or delay inpatient and scheduled outpatient care. App. at 1.

5. The Revolution ES CT scanner employs more advanced, up-to-date technology than the current scanner and will further reduce a patient's exposure to radiation. App. at 2. The new scanner will help ensure that RRMC complies with best practice protocols based on American College of Radiology standards. App. at 2.

6. To accommodate the new CT scanner, the applicant will renovate 485 square feet of existing space at a cost of \$243 per square foot, for a total of \$117,617, approximately 40% of which is for necessary mechanical and electrical work. App. at 3. RRMC has collaborated with Efficiency Vermont, which has provided RRMC with a letter confirming that it has consulted with RRMC on the project. App. at 3.

7. The existing CT scanner is fully depreciated, with the exception of the most recent \$11,000 upgrade made in FY 2017 which has a remaining book value of \$6,600. Improvements to real property made in 2007 to accommodate the scanner will continue to depreciate for several more years, and carry a remaining book value of \$69,254. App. at 4.

8. The application, as initially submitted, reflected a total project cost of \$2,033,980. App., Table 1. During the course of the CON review process, it was determined that the vendor quotes did not reflect Governing Pricing Agreement (GPO) pricing, which reduced the cost of the equipment by \$9,952.80. Resp. (Dec. 13, 2018) at 5. With this revision, the total project cost is \$2,024,027. Resp. (Jan. 9, 2019), Table 1.

9. RRMC will finance the project with working capital. App., Table 2; Resp. (Jan. 9, 2019), Table 2. RRMC has included in its annual operating expenses \$247,960 for rental of a mobile CT unit for use during the eight-week installation period, costs related to training for the new equipment, and beginning in Year 2 and continuing for through the contract period, \$189,556 for maintenance coverage. Resp. (Jan. 16, 2019) at 1-2.

10. RRMC is not expecting a change in its Net Patient Revenue (NPR), increase in rates, changes in payor mix or changes in staffing as a result of this project.

11. \$1,500,000 was included for the project in RRMC's 2018 hospital budget submission, and \$1,916,951 in the 2019 submission. App. at 3. The project is expected to take eight weeks and will be completed in the third or fourth quarter of 2019. Resp. (Dec. 13, 2018) at 6.

### 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 does not expand services, but will allow RRMC to continue offering CT imaging services to residents in its service area. Findings of Fact (Findings) ¶¶ 1, 2. We further note that RRMC is participating in 2019 health care reform efforts through a contract for their Medicaid beneficiaries with OneCare Vermont, an Accountable Care Organization,<sup>1</sup> which is working statewide through the Vermont All Payer ACO Model to coordinate care and keep patients well.

The application is also consistent with the Health Resource Allocation Plan (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>2</sup> See HRAP Standards 1.7 (applicant has explained how the project is consistent with evidence-based practice); 1.9, 1.10, 1.12 (project is cost-effective, energy efficient and conforms with applicable FGI Guidelines); 3.4 (project has been included in hospital budget submissions); 3.6 (project will not increase the capacity beyond valid state, regional and/or national benchmarks for medically necessary scans); 3.7 (existing equipment is fully depreciated); 3.23 (equipment reduces costs and/or improves quality).

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<sup>1</sup> See, e.g., <https://gmcboard.vermont.gov/sites/gmcb/files/documents/Attachment%20A%20-%202019%20ACO%20Network%20Final%2009-26-18.pdf>

<sup>2</sup> The Vermont legislature in Act 167 (2018) made several changes to the State's CON law, which continues to reference the HRAP. See <https://legislature.vermont.gov/assets/Documents/2018/Docs/ACTS/ACT167/ACT167%20As%20Enacted.pdf>. While the HRAP is in the process of being updated, we continue to apply applicable standards from the current HRAP.

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).

After reviewing the record, we believe that the project's total cost of \$2,024,027 for the replacement of standard and necessary CT equipment and related renovations to accommodate the new equipment is reasonable. The project will not create a financial burden to the applicant, which will finance the project with existing capital and will not take on additional debt. Finding ¶ 9.

We further find that the project will not unduly increase the costs of care or unduly impact the affordability of care for consumers. The project is a straight replacement of existing CT equipment that has begun to fail and is not available for use at all the times it is needed. Findings ¶¶ 1, 4. The applicant does not intend to increase its rates as a result of the project, and does not project an increase in NPR or changes in payer mix or staffing. Finding ¶ 10. The new equipment will benefit both patients and providers; it is more technically advanced, will not experience the significant downtime that occurs with the current equipment, and will improve the quality of patient care by reducing the level of radiation exposure. Findings ¶¶ 4, 5. We are also persuaded that there are no viable, cost-effective alternatives to the project; the eleven-year old CT equipment has reached the end of its useful life and must be replaced.

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 entails the replacement of existing, needed medical equipment and does not add new services or expand the applicant's service offerings. CT imaging is a standard diagnostic service used for emergent, urgent and routine testing, and is also used to support RRM's radiation therapy program for treatment planning. ¶¶ 2, 4. The equipment being replaced has outlived its useful life, experiences frequent downtime and delays in patient care,

and its older technology exposes patients to higher levels of radiation than currently-available technology . Findings ¶¶ 1, 4, 5.

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 existing equipment is experiencing symptoms typical of equipment that is past its useful life, including increasing downtime and unavailability for needed patient care. The new equipment will increase access to care because it will be available for use on a more regular and predictable basis, helping eliminate the need to transfer patients with emergent conditions to other facilities, and delay in the care of others. Findings ¶¶ 4, 5. The new equipment also will reduce a patient's exposure to radiation relative to the existing CT scanner, thus improving quality of care. Finding ¶ 5.

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). The project is a straight replacement of essential CT equipment. Finding ¶ 1. The project does not expand or offer new services; rather, the project upgrades needed equipment to ensure that critical services will continue to be available to patients in RRMC's service area. Findings ¶¶ 1, 2, 4. Given that the project does not negatively impact any other hospital services, but simply improves an existing service, 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. As the project does not relocate, add or expand any patient services, 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). 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 neither involves mental health care services nor does it pose any barriers to mental health treatment, and the criterion is therefore not applicable.

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: February 12, 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: February 12, 2019

Attest: Jean Stetter, Administrative Services Director