

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Application of Valley Vista)
Conversion of Licensed Beds) GMCB-005-19con
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STATEMENT OF DECISION AND ORDER

Introduction

In this Decision and Order, we review the application of Valley Vista (also referred to as the applicant), an alcohol and substance use disorder treatment facility located in Bradford, Vermont, for a certificate of need to convert 14 beds licensed for youth by the Department for Children and Families to Therapeutic Community Residence beds licensed for adults by the Department of Disabilities, Aging and Independent Living. The only project cost is a \$250 fee for re-licensing the fourteen beds.

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 May 30, 2019, Valley Vista filed a certificate of need (CON) application and request for expedited review. The Board granted Valley Vista’s request for expedited review on June 14, 2019. The Board asked the applicant to provide additional information regarding the project on June 18, July 10, and August 1, 2019 and closed the application on September 12, 2019.

Jurisdiction

The Board has jurisdiction over this matter pursuant to 18 V.S.A. § 9375(b)(8) and 18 V.S.A. § 9434(a)(2).

Findings of Fact

1. Valley Vista operates two alcohol and substance use disorder treatment facilities in Vermont, an 80-bed facility in Bradford and a 19-bed facility in Vergennes. Valley Vista is part of Meridian Behavioral Health (MBH), which owns and operates residential and outpatient treatment facilities and programs for substance use disorder and/or substance use disorder/mental health disorders, psychiatric treatment programs, lab processing, and medication assisted therapy. MBH is based in New Brighton, Minnesota and has facilities in Minnesota, North Dakota, Maryland, Louisiana, California, and Vermont. Application (App.) at 2; Response to Questions (Resp.) (Aug. 16, 2019) at 4. Only the 80-bed facility located in Bradford is the subject of this CON application.

2. Valley Vista opened its Bradford facility in 2004 to provide treatment to women with alcohol and substance use disorder. Approximately a year and a half later, it established an Adolescent Treatment Program (ATP) for youth ages 13-17, and shortly thereafter, implemented a men's program. Valley Vista offers gender specific programs on separate wings of the facility. Since 2004, Valley Vista has treated nearly 8,000 individuals, most of whom were Vermonters, with alcohol and/or substance use disorder. Since its inception, the facility has been accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF). Resp. (Aug. 16, 2019) at 4.

3. The ATP program at Valley Vista initially opened with 18 beds licensed by the Department for Children and Families (DCF) to treat adolescents with substance use disorder. Average length of stay for adolescents was between 35 and 45 days. Resp. (Aug. 16, 2019) at 4. Over time, referrals from DCF dropped as they were seeking a longer-term program placement relative to Valley Vista's focus on shorter-term residential treatment. Over the past 12 months, the ATP component experienced a monthly average census of 2.83, with no referrals in some months. After discussions with State entities regarding the low monthly census rates for the ATP program and the reality of the best practice for youths being treated in their community, the ATP program was closed on May 14, 2019. Resp. (Aug. 16, 2019) at 3-4.

4. As of August 5, 2019, Valley Vista had 19 adult men and four adult women on their wait list. Resp. (Aug. 16, 2019) at 3. Valley Vista proposes to convert the 14 beds licensed for youth by DCF to 14 Therapeutic Community Residence (TCR) beds licensed for adults by the Department of Disabilities, Aging and Independent Living (DAIL) to meet the demand for adult treatment in Vermont. App. at 4 and Resp. (Aug. 16, 2019) at 7. The Vermont Division of Alcohol and Drug Abuse Programs (ADAP) supports the efforts to increase the availability of adult residential treatment capacity outlined in the CON application. Email from Megan Mitchell, Director of Clinical Services, Division of Alcohol and Drug Abuse Programs (July 26, 2019). DCF does not oppose the re-licensure of the 14 beds to meet the treatment needs of the adult community. Email from Ken Schatz, Commissioner, Department for Children and Families (May 1, 2019).

5. The treatment program at Valley Vista integrates mental health, substance and alcohol use disorder, and other health care needs for each patient and offers a comprehensive biopsychosocial assessment for each patient. Based on this assessment, a comprehensive treatment plan individualized to each patient is developed. The plan identifies needs that can be addressed while in treatment as well as working with a continued care specialist to create a transition plan to continue to address these needs as an outpatient. Valley Vista also completes a patient history and a physical exam to provide direction for any medical care the patient may need, some of which can be supported while in treatment and through referrals to a local health clinic. An OB/GYN provider visits Valley Vista on Wednesdays to address patient need. App. at 5. One of the population-level health targets in the All-Payer ACO Model Agreement between the State and the Centers for Medicare and Medicaid Services is the reduction of deaths related to drug overdose. All Payer Model, Appendix 1, Sec. a.i.

6. Valley Vista uses Procentive, a web-based electronic health record system for the management of patient care information, and will continue to use the same system once the 14 beds are re-licensed. App. at 7 and Resp. (Aug. 16, 2019) at 10.

7. Valley Vista provides multiple evidence-based therapeutic modalities, including health realization, Cognitive Behavioral Therapy, Dialectical Behavioral Therapy, Seeking Safety, Smart Recovery, 12-step programming, and the Seven Challenges. Each individual is treated with respect, dignity, anonymity and validation in a safe, therapeutic environment. App. at 2. Each residential treatment program offers services from withdrawal management to discharge and comprehensive aftercare planning to ensure participants have a continuum of care that supports enduring recovery. Valley Vista's board-certified psychiatrist is integrated into each program. App. at 2.

8. Program services provided by Valley Vista include: medically supervised detoxification, 24/7 residential care, mental health services for co-occurring conditions, medical services provided by 24/7 nursing staff supported by licensed medical providers, individualized comprehensive treatment plans, individual therapy/counseling, family/relationship therapy, recovery-focused groups and discussion led by clinical staff, self-directed by patients and outside 12-step based facilitators, group therapy, psycho-education groups, insight to spirituality, therapy dog services provided by trained handlers, anger management, expressive therapies, insight into accountability, yoga provided by staff and outside certified instructors, specialized dietary services, and comprehensive post-completion aftercare planning managed by the Continuing Care Specialist in collaboration with the patient and primary therapist. App. at 3.

9. As there will be no renovation or construction and no change in services offered, program costs or change in staffing, the only cost associated with the project is a \$250 licensing fee for re-licensing the 14 beds as adult beds. Resp. (July 2, 2019) at 1. With the conversion of beds from youth to adults, payer mix will shift to more Medicaid and commercial payers and Self-Pay payers will decrease, with no expected decrease in revenues. Resp. (August 16, 2019) at 9, 12. If any losses are incurred, they will be covered by MBH. Resp. (July 2, 2019) at 1. Once a CON is issued, Valley Vista will complete the re-licensing process with DAIL.

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 of demonstrating 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 proposed project 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 Health Resource Allocation Plan (HRAP). 18 V.S.A. § 9437(1).

We conclude that the project aligns with statewide health care reform goals and principles. One of the population-level health targets in the All-Payer ACO Model Agreement between the State and the Centers for Medicare and Medicaid Services is the reduction of deaths related to drug overdose. Findings of Fact (Findings), ¶ 5. As of August 5, 2019, Valley Vista had a wait list of 19 adult men and four adult women. This project will further the goal of reducing deaths relating to drug overdose by expanding the number of critically needed alcohol and substance use disorder treatment beds for adult men and improving access to these services. Findings, ¶ 4.

The project 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 revised¹—Valley Vista has demonstrated that this project is consistent with the relevant HRAP standards: Standards 4.4 (project is consistent with the Department of Health’s recommendations concerning effective substance use disorder treatment); 4.5 (ensure that such project supports further integration of mental health, substance abuse and other health care); and 4.6 (demonstrate how integration of mental health, substance abuse and primary care will occur, including whether co-location of services is proposed). Findings, ¶¶ 5, 7-8.

With respect to the Institute of Healthcare Improvement Triple Aims, the individual experience of care will be greatly improved by providing more timely access to the comprehensive range of treatment and program services offered to individuals at Valley Vista who suffer from alcohol and/or substance use disorder and mental health conditions. Furthermore, the addition of 14 adult beds improves the health of populations for individuals seeking treatment for such disorders. Lastly, creating more beds for adults improves access to critically needed services in an appropriate treatment setting instead of the provision of no care or seeking care in inappropriate settings such as hospital Emergency Departments. Findings, ¶¶ 3-4, 7-8.

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 cost of the project is reasonable because the applicant’s financial condition will sustain any financial burden likely to result from completion of the project and because 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, such as “the financial

¹ 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.

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.” Under the second statutory criterion, the applicant must also demonstrate 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, it is clear that because the project involves only the re-licensure of the existing 14 beds from DCF to DAIL as TCR beds for adults, with no renovation or construction, no change in staffing, programs, or program costs, the project’s total cost of \$250 is reasonable and does not create a financial burden to the applicant. On the contrary, the re-licensure of beds will improve Valley Vista’s financial status by filling vacant beds. If losses were to be incurred, they will be covered by Meridian Behavioral Health. Findings, ¶¶ 3-4, 9.

We further find that the project will not unduly increase the costs of care, will not unduly impact the affordability of care for consumers, and any fiscal impact is outweighed by the benefit of the project to the public. The project involves the re-licensure of 14 existing beds licensed by DCF for youths to TCR beds licensed by DAIL for adults. Based on the August 5, 2019 wait list of 19 adult men and four adult women, the project will increase access to appropriate comprehensive treatment that is critically needed by adults suffering from alcohol and substance use disorder. Findings, ¶¶ 4, 7-9.

As the project does not involve any renovation or construction, energy efficiency measures are not applicable. 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).

Given the epidemic of opioid addiction, there is an identifiable and existing need for more adult treatment beds. This project entails the re-licensure of existing beds for placement of adults with alcohol and substance use disorder. Since its inception, Valley Vista has specialized in the treatment of alcohol and substance use disorders and treatment of related mental health conditions. Valley Vista also services the entire state and provides comprehensive and critically needed services for people with such conditions. Findings ¶¶ 1, 4, 7-8.

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 project will improve access to critically needed comprehensive, evidence-based treatment for adults with alcohol and/or substance use disorder. Findings, ¶¶ 4, 7-8.

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). Because the project involves only the re-licensure of beds for which there is a documented need, does not make changes in staffing or treatment or program services, and because the existing beds will be available for treatment of adults, there is no negative impact on the services offered. The project ensures that more critically needed beds will be available to Vermonters who seek treatment for alcohol and/or substance use disorder throughout the state. Findings, ¶¶ 4, 9. As the project improves needed access to an existing service already offered by Valley Vista, 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, alcohol and substance use disorder patient services, we find that this criterion is not applicable.

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 18 V.S.A. § 9351. The criterion is not applicable to this project.

IX.

Last, the applicant must show that the project will support equal access to appropriate mental health care that meets standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care, as appropriate. 18

