STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Application of Southwestern Vermont Medical Center, Modernization Of Emergency Department And Hospital Front Entrance	)	GMCB-019-19con

STATEMENT OF DECISION AND ORDER

Introduction

In this Decision and Order, we review the application of Southwestern Vermont Medical Center (SVMC or "the applicant") for a certificate of need (CON) to modernize its emergency department (ED) and hospital front entrance. The project involves renovation of 7,700 square feet of existing ED space and construction of 6,700 square feet of additional new space to the current ED footprint, for a total cost of $25,801,975.

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 March 10, 2020, SVMC filed a CON application and on August 17, 2020, filed a request for expedited review. The Board granted SVMC's request for expedited review on August 31, 2020. The Board requested that the applicant provide additional information regarding the project on April 2, June 19, July 28, and October 16, 2020, which SVMC provided on June 17, July 22, August 17, and November 16, 2020, respectively. The Board closed the application on September 10, 2020. On October 16, 2020, the Board sent the applicant questions identified during its statutory review of the application and extended public comment on the application to November 27, 2020.

Jurisdiction

The Board has jurisdiction over this matter pursuant to 18 V.S.A. § 9375(b)(8) and 18 V.S.A. § 9434(b)(1).

Findings of Fact

1. SVMC serves a population of approximately 70,000 within Bennington and western Windham counties in Vermont, the eastern New York counties of Rensselaer and Washington and northern Berkshire County in Massachusetts. Application (App.), 14. SVMC's current ED was last upgraded in 1996 to accommodate a capacity of 15,000 visits annually. For the past three years

the ED has treated an average of 23,700 patients annually, resulting in frequent use of hallway beds. SVMC's service area could not be adequately served without an emergency department. App., 10.

2. SVMC's physical plant is the oldest of peer Prospective Payment System (PPS) hospitals with an average age of plant of 18.4 years. App., 18. The ED was last upgraded in 1996 and is undersized and outmoded. App., 10. SVMC has prioritized modernizing the ED to address the need to increase capacity to meet current and future demand for ED services and reduce or eliminate the use of hallway beds at peak times; improve caregiver collaboration and ultimately outcomes by reorganizing space so that care team space is adequately sized and teams are not segregated, which currently creates operational inefficiencies, disrupts effective communication and care delivery; improve patient experience and provide privacy by eliminating treatment areas that are only separated by curtains; and improve infection control by eliminating open treatment spaces currently separated only by curtains. App., 10-11, 18.

3. Currently SVMC's ED treatment rooms are undersized and do not meet Facility Guidelines Institute (FGI) standards which limits space for the care teams and hampers effective use of technology in treatment rooms. As treatment spaces are separated only by curtains, maintaining patient privacy is challenging given the exchange of personal and confidential information in these spaces. Additionally, the occasional presence of loud or disruptive patients can be unsettling to other patients seeking care in the ED. The ED has become the frontline of initial care for persons experiencing a mental health or substance use disorder crisis. With three beds, the current mental health area often exceeds capacity and the configuration of the existing space does not create an environment for the provision of destigmatized, trauma-informed and person-centered care essential for calming, treatment and decreasing length of stays. App., 10-12, 20, 22, 28.

4. SVMC carefully considered information to right-size its ED so that it will serve the hospital for 15-20 years. Response to Questions (Resp.) (June 17, 2020), 10. The model considered many variables, including the population served and future demographics; national projections for future acute care demand; distribution of patient acuity and arrival times; dispositions of patients; and operational flow. App., 18. Adjustments to the assumptions were made in consideration of the impact of OneCare participation, such as intensive outpatient or ambulatory management of OneCare designated high- and very high-risk categories of patients, which will likely reduce ED visits. The projected utilization is based upon ED demand of 20,000 patients treated annually, more than 17% fewer patients than the 24,238 patients treated during fiscal year 2019. App., 19; Resp. (June 17, 2020), 10.

5. More than 75% of care delivered by SVMC is on an outpatient basis. The project involves completely renovating 7,700 square feet of existing ED space and the construction of 6,700 square feet of additional space to the existing ED footprint for a total of 14,400 square feet. The new construction will extend into the current main traffic route to the ED and hospital main entrance, necessitating re-routing campus traffic flow and constructing a new front entrance and lobby. App.,

13, 15. The project includes demolishing the Lodge Building built in 1925[1]; creating a new main entrance and lobby; relocating outpatient registration to a prominent and convenient location in the lobby from its current remote location down a hallway; relocation of phlebotomy; minor adjustments to the laboratory and the imaging department's waiting room to accommodate the new floor plan; and minor upgrades to the café and lobby. App., 13, 15, 37.

6. Demolition of the Lodge Building allows for traffic flow to be sensibly re-routed and allows for convenient parking close to the hospital's main entrance and improved visual wayfinding. The Finance team currently occupies the Lodge Building and will be relocated to other space. The cost of both are included in the total project cost. App., 13. The proposed traffic flow and parking plan adhere to best practices for safety and segregating public traffic and parking away from dedicated ambulance routes and ED docking. The new front entrance will include a carport for patient drop-off and valet parking services. The site work required for re-routing traffic flow and parking is included in the total project cost. App., 13.

7. A new 17,500 CFM air handling system with 50-ton cooling unit, 500-ton centrifugal chiller and four drop pneumatic transfer system for specimens and pharmaceuticals will be installed to support the new facility. The costs are included in the total project cost. App., 14, 16.

8. The project increases the number of treatment spaces in the non-mental health portion of the ED from 16 to 18; creates four vertical treatment spaces fitted with treatment chairs rather than stretchers to encourage rapid treatment and discharge to home for low acuity patients (e.g. tick bites, urinary tract infections); builds two adjacent trauma treatment spaces near the ambulance bay and helicopter pad; establishes a treatment space for airborne infectious isolation with separate bathrooms and negative pressure airflow through an isolated rooftop exhaust; constructs all treatment spaces with three hard, sound-proof walls and retractable hand-wave activated doors to minimize infection transmission; implements a single, centralized care team collaboration space to ensure effective and efficient communication to support timely diagnoses and treatment; positions six exam rooms in direct line-of-sight from the care team collaboration space including five treatment spaces for high-acuity medical patients; installs telemedicine equipment in most treatment rooms to virtually connect with specialists for consultation, diagnosis and treatment 24/7; flexibly converts any of the generically outfitted exam rooms to a specialized care room by using mobile medical-specialty carts (e.g. catheter cart, suture cart, and intubation cart); creates adequate storage space that is adaptable to the ever-changing supply and medical device needs; and improves safety of patients and staff by establishing best-practice access routes, and security station within the ED. App., 11-12.

9. The project will increase the total number of ED beds from 16 to 18, as shown below.

Medical Treatment Spaces	**Current**	**Planned**
Vertical treatment spaces	0	4

[1] SVMC confirmed that the Lodge Building is not on the National Register of Historic Places.

Trauma treatment rooms	1	2
Infectious isolation treatment room	0	1
Standard exam room	15	11
Total medical treatment spaces	16	18

App., 19.

10. The project will increase access to care and reduce length of stay, particularly for persons experiencing a mental health crisis. Currently the average length of stay in the ED for persons experiencing a mental health crisis is 19 hours, seven times longer than persons seeking care without a mental health diagnosis. Resp. (June 17, 2020), 8. The mental health crisis care area is carefully designed to ensure destigmatized, trauma-informed, patient-centered care for persons experiencing a mental health crisis and to improve access, mental health healing and decrease length of stay. App., 20, 22, 32; Resp. (June 17, 2020), 8. Nearly 25% of the modernized ED and approximately 50% of the newly constructed area will be dedicated to the mental health crisis area. App., 12. The project expands mental health crisis treatment rooms from three to five, improving access; provides flexibility to secure parts of the entire care area based on attending provider's assessment and best-practice related to the patient's status; allows separation of both high and low-acuity individuals or separation of pediatric and adult individuals to enhance safety; maintains freedom to leave as the unit will be unlocked so persons voluntarily seeking treatment may leave; incorporates windows for natural light in each individual's room; offers entry to the mental health crisis care area for individuals seeking care, family members and peer supports directly through triage and the ambulance bay, allowing discrete access to this area without exposure to medical care areas or the ED; expands current tele-psychiatry capability throughout the mental health crisis area including the group room for visits with family, peer and support persons; and builds a care team collaboration space that ensures effective team-based, trauma-informed care in this area. App., 12, 28, 32-33; Resp. (June 17, 2020), 8.

11. The vast majority of persons seeking mental health care in the ED are voluntary, with only 7% being involuntary. Resp. (June 17, 2020), 4-5, 8. Mental health crisis treatment rooms that are distant from the staff area will be monitored by video technology without recording. An SVMC staff member will be dedicated 24/7 to monitor the video feeds throughout the mental health crisis care area. Resp. (June 17, 2020), 7. All mental health crisis treatment rooms will be ligature resistant consistent with The Joint Commission and the Center for Medicare and Medicaid Services requirements. The bathrooms within the mental health crisis area, including the shower, will be ligature resistant. Resp. (June 17, 2020), 7.

12. Prior to developing the design of the mental health crisis care area, SVMC solicited input from the Depression and Bi-Polar Support Group at United Counseling Service, Bennington County's Designated Agency. Recommendations included treatment rooms with windows, a comfortable seating option and common area or group room with activities. SVMC integrated these features into the schematic design and have agreed to follow-up with the group during the detailed design phase. In addition, SVMC has closely monitored and participated in state-wide discussions about stigmatized mental health care and the need to maintain free-will for persons

seeking care voluntarily in EDs. The design of the mental health crisis area conscientiously includes a series of doorways that strike the appropriate balance between freedom and ensuring persons seeking mental health care remain safe while limiting the risk of harm to staff and providers. The design of this space provides flexibility to respond to the changing acuity of individuals receiving care and the milieu of patient acuity and presentation. Additionally, the design aligns with the Vermont Department of Mental Health's Vision 2030. In particular, the design enhances opportunities for support from peers with lived experience and enhances collaboration by caregivers to ensure trauma-informed care. App., 33-34.

13. The mental health crisis care area provides destigmatized, trauma-informed, patient-centered care fully integrated within the ED for persons with mental health conditions and substance use disorders (SUD). In addition, all ED staff and providers will receive annual training on best practice treatment of persons experiencing mental health and SUD crises with particular focus on de-stigmatization and creating empathy for persons seeking mental health and SUD treatment during a crisis. App., 34.

14. Patients presenting in the ED with a mental health crisis or with mental health comorbidity are medically stabilized and evaluated by a qualified mental health provider from the local designated agency (United Counseling Service). Access to the on-call qualified mental health provider is 24/7 with response times of approximately 30 minutes. For patients needing additional management for a mental health crisis, a psychiatrist from the designated agency is available on a 24/7 basis by a phone consult. A psychiatrist is directly available to evaluate patients in the ED for four hours each weekday during the ED's busiest period. App., 31. SVMC also contracts with Dartmouth-Hitchcock Health for telepsychiatry services for on-demand consults and follow-up. The project will expand the current tele-psychiatry capability throughout the mental health crisis area, including the group room for guided group and peer support counseling. App., 31. Equipment to support telemedicine communication will also be purchased and installed in the mental health area and many of the ED treatment rooms. App., 12, 14.

15. To reduce ED visits, SVMC has increased access to primary care by nearly 50% from 4,500 to 6,700 visits annually, including opening new primary care sites and acquiring practices to ensure they are sustained within the communities served by SVMC; opened an ExpressCare option; and implemented population health programs. SVMC pioneered a transitional care nursing program that reduced ED readmissions for some of its most vulnerable patients and won national accolades for addressing home-based issues, post-inpatient discharge. Other initiatives have focused on social determinants of health such as food insecurity for patients in cardiac and pulmonary rehabilitation to ensure they receive proper nutritional support in addition to medical care; multi-disciplinary community care teams that engage community partners such as the Agency of Human Services, Support and Services at Home (SASH) and Visiting Nurse Associations in developing comprehensive care plans that address social determinants of health and reduce use of the ED. To further reduce inappropriate ED visits, SVMC has collaborated with United Counseling Service to launch Psychiatric Urgent Care for Kids (PUCK). This program identifies children in psychological crisis and diverts them from the ED to a site more appropriate

for youth treatment. This child and family centered therapeutic environment focuses on recovery, skill development to reduce depression and anxiety, and matriculation back to school. These efforts have reduced the number of ED visits by youth in mental health crisis by 40%. App., 30-31.

16. SVMC's payment and delivery reform initiatives dovetail with the project to modernize its ED. Eighty percent (80%) of SVMC's revenue is derived from outpatient services. Reform initiatives center on reducing unnecessary utilization and providing care in the most appropriate, lowest cost setting, including receiving care in other settings such as primary care to reduce ED visits. SVMC plans to reduce ED utilization and has based projected visits on 20,000 patients treated in the ED annually, which is 17% fewer than the 24,238 treated in fiscal year 2019. App., 25. The new ED creates four treatment spaces dedicated to rapid coordinated care of low acuity patients. The new ED design brings care teams together to enhance collaboration and efficiency and reduce treatment delays, which will in turn improve patient experience and quality of care. App., 25.

17. The project will increase access to care, improve patient experience through more calming private treatment spaces sheltered from disruptions from other patients, improve privacy and quality of care for all populations through effective care team interaction and collaboration, decrease patient wait times, and expedite throughput. The new ED security system and processes will deter and mitigate potential threats to staff and patients in the ED. The enhanced traffic flow and wayfinding to outpatient registration will also improve patient experience in times of emergencies. App., 22-23.

18. SVMC is dedicated to limiting infection risk for all patients. The new ED will adhere to all regulations, standards, recommendations and best practices of the Facility Guidelines Institute and The Joint Commission. In addition, the new design includes the latest principles of infection control in ED settings, including mechanically operated doors in treatment rooms activated by hand waves. During construction and renovation, SVMC's infection prevention team will scrutinize all design elements and practices to ensure infection prevention protocols and processes are in place. App., 26; Resp. (Aug. 17, 2020); FGI Checklist, 1-20.

19. SVMC projects 24,000 ED visits in year 1; 23,750 in year 2; and 23,500 in year 3; and 23,962 in year 4. SVMC projects an increase of approximately 537 visits in ED visits in year 4 as a result of this project. App. Appendix 5, Table 7B and 7C (Utilization Projections). SVMC's population health programming is helping to reduce ED visits. App., 30. SVMC represents that the modernized ED will be functional for 15-20 years and expects that over time ED visits will be reduced to approximately 20,000 annually. Resp. (June 17, 2020), 10.

20. SVMC's overall financial health over the past five years has been strong. App., 35. The project cost is $25,801,975. App., Exhibit 5, Table 1 and Revised Table 1 submitted on Nov. 16, 2020. The cost per square foot for the 6,700 square feet of new construction is approximately $1,278. This cost is higher than industry standard due to the complexity of the project, which includes demolition of an existing building, new construction, a protracted schedule with four

phases, and installation of critical infrastructure. App., 24; Resp. (July 22, 2020), 2-4. The cost per square foot for the 7,700 square feet of renovation of the existing ED is approximately $697 per square foot, which falls within the industry standard for renovations. Resp. (July 22, 2020), 5. Given the project's complexity, no less expensive alternatives to modernizing the ED are appropriate. App., 36.

21. The project cost will be financed with an equity contribution of $6,901,975, $14,562,000 in fundraising and $5,662,000 in debt financing. *See* Appendix 5, Table 2 and Revised Table 2, submitted on November 16, 2020. Southwestern Vermont Health Care (SVHC), SVMC's parent organization and Foundation, through its Vision 2020 fundraising activities, anticipates raising $14,562,000 to be used for this project. As of January 31, 2019, SVHC's Foundation had received approximately $2,700,000 of cash with the remaining $12,000,00 comprised of: secured unconditional pledges of $2,600,000; $5,000,000 in secured conditional pledges; and $4,500,000 of future pledges to be received. SVMC is working with several financial institutions on a debt financing transaction to support the project. Included in the plan is a $10,000,000 loan executed in FY 2022 to maintain cash flow during the project with $5,000,000 being repaid when the project is complete and by the conditional pledge that is expected to be received upon project completion. App., 17; Resp. (June 17, 2020), 1-3. If the fundraising goal is not met, the contingency plan would be for SVHC to fund the deficit; delay repayment of the loan at the accelerated rate reflected in the application; or a combination of both strategies. Resp., (June 17, 2020), 4. Staff asked a question regarding how the COVID-19 pandemic may change the expected timetable for the project and impact on cost. SVMC responded that it is not expecting the timetable for the project to change significantly due to COVID-19. SVMC responded that upon CON approval, the detailed design phase will revisit features to maintain patient and staff safety. Design changes will be balanced to maintain the overall project cost indicated in the application. Resp. (June 17, 2020), 4.

22. No less expensive alternatives to modernizing the ED are appropriate. SVMC has not upgraded its hospital-based facilities in decades and has the oldest physical plant of Vermont hospitals in its peer group, approximately 35% older than the average age of plant of hospitals in its peer group. App., 18. This project is the first major facility upgrade in over 20 years and is critical to SVMC's future success and to accommodate ED services needed by the residents of its service area. App., 10. The current ED was built to accommodate 15,000 visits annually. Annual visits at over 24,000 equates to a 60% increase over the capacity for which it was built, resulting in frequent use of ED hallway beds. App., 18, 36. The current ED, which has only curtains separating patients, affords little privacy and allows adjacent patients, staff, and family members to overhear sensitive descriptions of symptoms, causes, or treatments and other personal and confidential information. App., 38. The project will increase access and quality by providing better coordinated, team based care that reduces time spent in the ED and will improve patient experience and outcomes; enhance privacy and infectious disease control; implement a clear campus traffic flow and parking for vehicular and pedestrian safety; and enhance wayfinding to outpatient registration to improve patient experience. The ED is substantially undersized and in need of modernization. The project will establish SVMC's emergency care delivery platform for decades to come. App., 36-37.

23. The project will not have an adverse impact on any other services provided by SVMC. Rather, some existing services are likely to experience benefit. For example, the experience of patients receiving outpatient imaging studies is likely to improve. After registration for an outpatient imaging study, patients currently exit registration and re-enter public space on route to the imaging suite. This journey through public space is disconcerting to patients. The project will relocate outpatient registration, allowing patients to directly enter the imaging suite following registration, eliminating travel through public corridors. App., 38.

24. Once the project is complete, annual operating expenses will increase by approximately $3,000,000, which includes approximately $1,150,000 in operating expenses due to a larger facility requiring more heat, power, cleaning, etc., and changes in workforce to support process changes associated with the new facility; approximately $1,700,000 in increased capital depreciation; and a $250,000 increase in interest expense. App., 23.

25. In terms of the project timeline, SVMC expects to start the project in the spring of 2021 and complete the project by the summer of 2023. The project will be completed in four phases, which includes the demolition of the Lodge Building, 6,700 square feet of new construction and 7700 square feet of renovation and construction of a new front entrance and car port, site work and parking. App., 23-24.

26. The project was included in SVMC's hospital budget narrative submitted to the Green Mountain Care Board (GMCB) in 2019 and in 2020. However, the project's scope and scale were being refined during the FY 2020 budget development and the project costs reported in the application reflect those adjustments. App. 17, 29.

27. The project is designed to meet or exceed FGI requirements and energy efficiency requirements. App., 29; Resp. (Aug. 17, 2020), Compliance Checklist, 1-20. Efficiency Vermont has been an active participant in the design of this project in the identification, adoption, and refinement of appropriate energy efficiency strategies for the project. App., 28; Appendix 7. SVMC's partners for the project, Lavallee Brensinger Architects and PC Construction both have extensive healthcare facility experience and have validated the project cost estimates against benchmarks. The estimated cost of the project is reasonable for the size and scope of the project. PC Construction has extensive experience completing projects on time and under budget. PC will employ qualified local contractors thereby reducing unnecessary contractor travel expenses and insuring project spending supports the local economy. App., 27. The project meets all FGI Guidelines and requirements. Resp. (Aug. 17, 2020), 1-20.

28. The project is not expected to result in any increase in the cost of medical care and SVMC will not request a rate increase associated with the project or raise charges for ED services. App., 20. However, we note that SVMC's financial tables show a change in charge of 4.7% in FY 2021, 5% in FY 2022, 5.3% in FY 2023, and 6% in FY 2024. Upon request from the Board, SVMC revised Table 3 A, B, and C to reflect the 3.5% change in charge that was requested by SVMC and granted by the Board for FY 2021. Resp. (Nov. 16, 2020), 2. The Board's request for revised tables emphasized that the projected change in charge of between 5% and 6% in FY 2022, FY

2023 and FY 2024 reflected in SVMC's financial tables are inconsistent with and significantly higher than annual increases the Board has historically approved for SVMC. For example, SVMC requested and the Board approved 2.8% in FY 2020; SVMC requested 3.2% and the Board approved 3.0% in FY 2019; and SVMC requested and the Board approved 2.85% in FY 2018. *See* Letter from Donna Jerry to James Trimarchi, (Oct. 16, 2020). In SVMC's response to Board questions, SVMC stated that if the projected changes in charge of 5% to 6% in FY 2022-2024 are not approved by the Board, the contingency plan is to reduce the projected operating margins and make necessary adjustments to meet the healthcare needs of the community served with the resources of the organization. Resp. (Nov. 16, 2020), 4-5. In addition, we note that non-MD FTEs for staff will be increased by 1.8 in year 1; 3.1 in year 2; and 2.5 in year 3. App., Appendix 5, Table 8 (Staffing Report).

29. There is no impact on transportation that will result from the project as the ED is remaining in the existing location and is served by free public transportation. App., 14.

30. No new clinical services, major moveable or fixed diagnostic medical equipment or imaging equipment will be added as a result of this project. App., 14, 29.

31. The project does not have a health information technology component. App., 38.

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, an 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).

SVMC has shown that the proposed project aligns with statewide health care reform goals and principles. Even before transitioning to new value-based payment programs, a transition SVMC has embraced, SVMC was working to shift care from its ED to more appropriate clinical settings, including primary care, pediatrics, and urgent care, which is consistent with health care reform goals and principles. Insomuch as it can, the proposed project supports these efforts. The project will not expand service lines and is not expected to increase ED volumes. *See* Findings, ¶¶ 4, 15-16. Rather, the project will increase capacity to meet existing and future patient volumes. The improvements that will be made to the physical space of the ED can be expected to better facilitate work SVMC is already engaged in to deliver the right care, at the right time, and in the

right setting, in support of health care reform goals and principles. *See* Findings, ¶¶ 1-2, 4, 8, 16, 19, 22.

The proposed project also addresses current and future community needs; it will modernize an outdated ED that serves as a critical community resource and safety net to the 70,000+ people in its service area by creating adequate capacity in the ED and private rooms (as opposed to antiquated and inappropriate curtained treatment areas), and a dedicated isolation room for treatment of patients with airborne infectious diseases such as COVID-19. The project also reconfigures and increases capacity in the mental health crisis area from three to five rooms and creates a group space for achieving destigmatized, trauma-informed, patient-centered care for persons experiencing a mental health crisis, which should improve access and mental health healing and decrease the length of stay. All mental health crisis treatment rooms will be ligature resistant consistent with The Joint Commission and the Center for Medicare and Medicaid Services requirements. The bathrooms within the mental health crisis area, including the shower, will be ligature resistant. *See* Findings, ¶¶ 1, 2-4, 8-13, 18, 22.

The project is also consistent with the HRAP,[2] which identifies needs in Vermont's health care system, resources to address those needs, and priorities for addressing them on a statewide basis. *See* HRAP Standards: 1.8 (applicant has a comprehensive evidence-based system for controlling infectious disease); 1.9, 1.10, and 1.12 (project is cost-effective, energy efficient and conforms with applicable FGI Guidelines); 3.4 (project has been included in hospital budget submissions); 3.18 (applicant shall explain what measures are also being taken to address primary care infrastructure limitations that may be increasing pressure on emergency departments); 4.3 (applicant shall address how it plans to provide access to on-call emergency psychiatry consultations and how the expansion of ED will enhance current or emerging mental health and substance abuse needs in the applicant's service area); and 4.5 (applicant shall ensure that project supports further integration of mental health, substance abuse and other health care).

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

II.

Under the second statutory CON 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 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

[2] 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 HRAP, which is in the process of being updated. In the interim, we consider the current HRAP standards.

appropriate; and if applicable, that the project has incorporated appropriate energy efficiency measures. 18 V.S.A. § 9437(2).

We conclude that the project's total cost of $25,801,975 is reasonable given its scope and complexity. The cost equates to approximately $1,278 per square foot for new construction. This cost per square foot is higher than industry standard for the new construction component due to the complexity of the project, which includes demolition of an existing building, changing the parking pattern, a protracted schedule with four phases, and installation of critical infrastructure components. The estimate for the renovation of the existing ED is approximately $697 per square foot, which falls within the industry standard for renovations. Findings, ¶ 20. SVMC's overall financial health over the past five years has been strong. The project cost will be financed with an equity contribution of $6,901,975, $14,562,000 in fundraising and $5,662,000 in debt financing. SVHC, SVMC's parent organization and Foundation, through its Vision 2020 fundraising activities anticipates raising of $14,562,000 to be used for this project. As of January 31, 2019, SVHC's Foundation had received approximately $2,700,000 of cash with the remaining $12,000,00 comprised of: secured unconditional pledges of $2,600,000; $5,000,000 in secured conditional pledges; and $4,500,000 of future pledges to be received. SVMC is working with several financial institutions on a debt financing transaction to support the project. Included in the plan is a $10,000,000 loan executed in FY 2022 to maintain cash flow during the project with $5,000,000 being repaid when the project is complete with the conditional pledge that is expected to be received upon project completion. If the fundraising goal is not met, the contingency plan would be for SVHC to fund the deficit; delay repayment of the loan at the accelerated rate reflected in the application; or a combination of both strategies. Findings, ¶ 21.

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 applicant represents that it will not increase its rates or its charges for ED services as a direct result of the project. Findings, ¶ 28. However, the Board emphasizes that the projected change in charge of between 5% and 6% in FY 2022, FY 2023 and FY 2024 reflected in SVMC financial tables are inconsistent with what the Board has historically approved for SVMC. For example, SVMC requested and the Board approved 2.8% in FY 2020; SVMC requested 3.2% and the Board approved 3.0% in FY 2019; and SVMC requested and the Board approved 2.85% in FY 2018. In SVMC's response to Board questions, SVMC stated that if the projected change in charge of 5% to 6% in FY 2022-2024 are not approved by the Board, the contingency plan is to reduce the projected operating margins and make necessary adjustments to meet the healthcare needs of the community served with the resources of the organization. Findings, ¶ 28. The Board, in approving this CON, does not approve nor guarantee the projected 5% to 6% increases in charges in FY 2022-FY 2024. In fact, we do not believe the Board is likely to approve the 5% to 6% changes in charge reflected in this application for FY 2022-FY 2024 given the Board's historical approvals of SVMC's changes in charge. However, as SVMC has outlined a reasonable contingency plan for changes in charge in FY 2022 – FY 2024 in line with historical approvals, and given that we are able to monitor SVMC's changes in financing through the implementation reports required by this CON, we find SVMC has sufficiently satisfied the second criterion in this respect.

We do not anticipate that the project will negatively impact other providers' services, expenditures, or charges. Findings, ¶¶ 23, 28. Finally, the benefits of the project to the public are tangible and meaningful. The project will bring SVMC's ED capacity in line with current and projected utilization, thereby reducing the likelihood that patients will need to be cared for in hallways. *See* Findings, ¶¶ 1-3, 8-9. The project will create a private airborne infectious isolation room for safe treatment of diseases. Findings, ¶¶ 8-9. The project will also create private treatment rooms, a substantial improvement over the existing ED's curtained treatment areas, whereby adjacent patients, staff and family members currently can overhear sensitive descriptions of symptoms, causes, or treatments and other personal and confidential information. This needed change will protect privacy and enable more candid discussions with patients and their family members and more effective instruction. *See* Findings, ¶¶ 3, 17, 22. Finally, the project will create a more calming treatment area that will allow SVMC to care for patients experiencing a mental health or substance use disorder crisis. Findings, ¶¶ 10-14.

The project has incorporated appropriate energy efficiency measures. Findings, ¶ 27.

Finally, the applicant has demonstrated that less expensive alternatives would be unsatisfactory. Findings, ¶ 22.

We conclude that the applicant has satisfied the second criterion.

III.

Under the third criterion, an 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).

SVMC has demonstrated that, for multiple reasons, it needs to renovate its ED, the design of which has not been upgraded in more than 20 years. More specifically, there is a need to appropriately configure space and increase capacity in the designated mental health crisis area to care for persons experiencing a mental health crisis which includes expanding capacity from three to five ligature resistant treatment rooms, creating a group room, and expanding current tele-psychiatry capability throughout the mental health crisis area. There is also a clear need to increase capacity in the non-mental health portion of the ED by increasing treatment rooms from 16 to 18. The treatment space also creates four vertical treatment spaces fitted with treatment chairs rather than stretchers to encourage rapid treatment and discharge to home for low acuity patients (e.g. tick bites, urinary tract infections); builds two adjacent trauma treatment spaces near the ambulance bay and helicopter pad; and establishes a treatment space for airborne infectious isolation with separate bathrooms and negative pressure airflow to safely care for conditions such as COVID-19. The project significantly improves patient privacy given that patients are currently interviewed and cared for in curtained treatment areas that afford no privacy; and given that over 75% of care is delivered on an outpatient basis, there is a need to relocate the outpatient registration area, which is currently located remotely down a hallway, to a convenient and prominent location. The proposed project meets all these needs. *See* Findings, ¶¶ 1-5, 8-13, 17-18, 22-23.

For the reasons stated above, we conclude that applicant has satisfied the third criterion.

IV.

The fourth criterion requires that an 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).

The project will improve the quality of health care in SVMC's service area by increasing bed capacity in the ED to meet current and future demand; eliminating care of patients in hallway beds and creating private treatment rooms will improve patient experience, privacy and confidentiality (by eliminating treatment areas that are only separated by curtains where all personal conversations are overheard by others in adjacent curtained space). This is no longer acceptable in healthcare as a standard practice and has negative impacts on interactions between health care providers and patients and their families. Lastly, the project improves caregiver collaboration and morale and ultimately outcomes by reorganizing space so that care team space is adequately sized and are not segregated, which currently creates operational inefficiencies and disrupts effective communication and care delivery. *See* Findings, ¶¶ 2-3, 8, 17, 22-23.

The project will improve quality by creating an airborne infection isolation room for proper and safe care of patients whose conditions necessitate airborne isolation. While portable measures can be taken now to approximate a true airborne infections isolation room, quality can be improved by avoiding set-up delays and risks with a properly designed, permanently constructed, isolation space. *See* Findings, ¶¶ 8-9, 18.

Finally, quality will be improved with the creation of ligature-resistant rooms, bathrooms, and showers for patients in need of this type of space. Findings, ¶ 11.

We find that the applicant has met this criterion.

V.

The fifth criterion requires that an applicant demonstrate that the project will not have an undue adverse impact on any other services it offers. 18 V.S.A. § 9437(5). The project does not create new or expand service lines and primarily provides needed and required upgrades to the ED so that SVMC can continue to provide such services to patients in its service area. Findings, ¶¶ 2-3, 10-14, 30. As the project simply improves an existing service and does not adversely impact any other services offered by SVMC, we find that the criterion has been satisfied.

VI.

The sixth criterion was repealed, effective July 1, 2018. *See* 18 V.S.A. § 9437(6) (repealed).

VII.

The seventh statutory criterion requires that an applicant adequately consider the availability of affordable, accessible transportation services to the facility, if applicable. 18 V.S.A.

§ 9437(7). As the project does not relocate the ED or its services and is served by free public transportation which will continue once the ED project is completed, we find that this criterion is not applicable. Findings, ¶ 29.

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. 18 V.S.A. § 9437(8). The criterion is not applicable to this project. *See* Findings, ¶ 31.

IX.

Finally, an applicant must show that the proposed 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 V.S.A. § 9437(9). We find that SVMC has satisfied this criterion. The project's design was reached in consultation with the Depression and Bi-Polar Support Group at United Counseling Service, Bennington County's Designated Agency. Recommendations by that group included treatment rooms with windows, a comfortable seating option and common area or group room with activities. SVMC integrated these features into the schematic design and have agreed to follow-up with the group during the detailed design phase. In addition, SVMC has closely monitored and participated in state-wide discussions about stigmatized mental health care and the need to maintain free-will for persons seeking mental health care in EDs. The design of the mental health crisis area conscientiously includes a series of doorways that strike the appropriate balance between freedom and ensuring persons seeking mental health care remain safe while limiting the risk of harm to staff and providers. The design of this space provides flexibility to respond to the changing acuity of individuals receiving care and the milieu of patient acuity and presentation. Additionally, the design aligns with the Vermont Department of Mental Health's Vision 2030. In particular, the design enhances opportunities for support from peers with lived experience and enhances collaboration by caregivers to ensure trauma-informed care. Findings, ¶¶ 10-14, 17. The modernized ED was designed to be a more private and calming area for the treatment of all patients, including those with significant mental health issues, and it will be a significant improvement over SVMC's current ED in terms of its ability to provide appropriate mental health care. *See* Findings, ¶¶ 10-14, 17.

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: December 14, 2020 at Montpelier, Vermont.

s/ Kevin Mullin, Chair)
)

GREEN MOUNTAIN

s/ Jessica Holmes	)	CARE BOARD
	)	OF VERMONT
s/ Robin Lunge	)	
	)	
s/ Tom Pelham	)	
	)	
s/ Maureen Usifer	)	

Filed: December 14, 2020

Attest: Jean Stetter, Administrative Services Director