



Via Email Only

January 7, 2022

Kevin Mullin, Chair
C/O Michael Barber, General Counsel
Green Mountain Care Board
144 State Street
Montpelier, Vermont 05602

Re: GMCB-008-21CON – CSC Response to Capacity and Volumes Study

Dear Chair Mullin:

Thank you for sharing with us the Green Mountain Care Board’s “Outpatient Surgery Capacity and Volumes” report dated December 29, 2021, compiled to help evaluate the CSC’s Certificate of Need request to open a new independent ambulatory surgery center in Chittenden County.

It is apparent from the data collected that there is a pressing need for more surgical capacity in Chittenden County. As the report details there is no metric for measuring an appropriate level of area-wide operating room utilization. The only metrics relied on in the report to address the question of how much capacity is needed in a system is based on utilization at singular facilities as opposed to area-wide facilities. Using those numbers, to the extent that is at all a relevant or reliable basis, the report shows that operating capacity is currently operating above benchmark standards. The report also details how capacity is expected to further grow so as to exceed such standards. This is the lack of capacity that the CSC has been talking about with this Board since it filed its application. Simply put, more operating room capacity is needed for an efficient healthcare system. The long wait times and lack of access local residents are experiencing and the State’s investigation into that issue is evidence that further capacity is needed in the system.

In fact, the report also illustrates that more capacity beyond the four rooms proposed by the CSC are needed. With those four rooms, the report still shows a 2024 utilization rate of 80.4% - above efficient operating standards. Thus, to the extent this report relies on reliable methods or data and is relevant – points addressed below – it very clearly supports the CSC’s application for an un-restricted multi-specialty Certificate of Need for a four-operating room facility.

In your consideration of this report, the CSC calls to your attention the following issues.

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1. **OR capacity is not fungible.** As you can see in the data that was submitted, certain hospitals like UVMMC and Copley, show utilization rates of 90-100%+. This is resulting in substantial and problematic wait times and patient access limitations. Thus, even though there is "theoretically" available capacity at other hospitals that capacity is not used. To utilize an operating room, many things need to be coordinated and in place, including, but not limited to, credentialed surgeons on the medical staff at the facility in question, patients willing to travel to the alternative hospital or surgery center, trained circulating nurses, surgical technicians, and in some cases first assists, in the specific procedures that the surgeon performs, the appropriate imaging equipment available for use, and the appropriate surgical instruments. It is far too simplistic to simply add up all the available "capacity" in Northwest Vermont and assume that surgeons, patients, and staff will "migrate" to where the available OR space and use it effectively, which is what the charts presented in the report seem to imply can be done. It is likely for this reason that the report does not cite or rely on any published analysis looking at efficiency on an area-wide utilization basis. A more representative metric is likely the wait time analysis being prepared by the State of Vermont and this Board which likely more accurately reflects area-wide inefficient conditions.
2. **Wait times and lack of access to specialists are not mentioned or accounted for anywhere in this report.** An analysis of current wait times by specialty would give an indication of the pent-up demand for surgeries and allow the Board to more accurately determine how much additional capacity is required to provide patients with reasonable access. However, pent up demand indicated by excessive wait times is not mentioned in the report.
3. **There is no accounting in this report for the increased demand in future years** due to the well-established trend of inpatient surgeries moving to outpatient surgeries. (<https://www.ormanager.com/shifts-case-mix-bode-well-future-outpatient-surgery/>). Additionally, there is no accounting for the high population growth specifically in Chittenden County, which has far outpaced growth in every other county over the past 10 years at 7.5% (2020 Census). Finally, CSC has underscored elsewhere in the application that we expect to draw additional patients from Canada and New York which will require more OR space in the future to meet the needs of these patients.
4. **All data has been submitted by incumbent facilities with no uniform methodology, instructions, or auditing.** The report caveats its finding by stating that the data it relied on is of suspect quality because there were no uniform rules as to how providers should assign cases, how to evaluate and verify the self-reported capacity and volumes, and the projected changes to volumes submitted by institutions were arbitrary and not based on any standardized method or methodology.

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5. **Lack of Capacity Data for any Specialty.** The report details occupancy rates of operating rooms in Figures 1 and 2. The report then shifts from measuring occupancy rate to breaking down each providers' share of cases by specialty. In so shifting its focus the report does not detail the "capacity" or "utilization" of any specialty. This is an important point to note. For example, in considering orthopedic cases, the report does not state whether the current volume of roughly 8000 cases is below capacity, at capacity or above capacity. In many regards, this is why the CSC is seeking a multi-specialty license with no practice limitation. The CSC does not know with exact certainty how many more dentistry cases (for example) will the market demand. Its intent is to meet those market demands and move with the market so as to ensure that those specialties with the most need are accommodated at the CSC.

(As a side note, the data presented in the Dentistry Specialty chart is incorrect as the Dentistry volumes submitted by GMSC for 2021 – 2024 do not appear on the chart).

6. **Data supports Flexibility.** CSC intends to provide a complete spectrum of surgical services with a focus on four critically in-need areas: orthopedics, ENT, urology, and dental. The project will not move forward if the number of procedures that may be performed per specialty at CSC are capped. As explained above, while the CSC knows that wait times are long and there is a need for more urologists, orthopedic surgeons (including sports medicine and neurosurgeons), dentists, and ENT surgeons, the CSC does not know the exact demand for any one specialty. It needs to be able to meet patient demand and cannot be capped or limited.
7. **Projections are not Proposed Conditions.** The CSC provided projections in response to the Board's survey. Those projections are not proposed conditions and/or proposed limitations. The CSC may exceed any of those numbers in any given specialty (or may fall short of those numbers too). The reasons are myriad for this reality, but the fact of the matter is that the CSC (nor any provider) cannot predict the future and which specialties or specialist will be in demand and available. It is for this reason that the CSC requires leeway in how many procedures per specialty are performed at CSC.

In summary, the CSC will quickly and cost-effectively add much-needed, high quality and affordable surgical capacity to Vermont. Ambulatory surgery centers consistently receive high patient and provider satisfaction scores, and we believe Vermonters need more options like those that will be offered by the CSC. The CSC also will help attract surgeons to Vermont, particularly independent ones, helping to diversify our health care system so we have a healthier balance of community and hospital-based providers. The associated charitable Foundation adds additional value and demonstrates our desire and commitment to help make Vermont's health care system the best that it can be.

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The CSC looks forward to addressing its application with the Board. Should you have any further questions or need anything additional do not hesitate to contact me.

Thank you,

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ATTORNEYS