

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Application of Rutland Regional Medical)
Center, Replacement of Existing MRI) GMCB-020-21con
and Renovation of MRI Space)
_____)

STATEMENT OF DECISION AND ORDER

Introduction

In this Decision and Order we review the application of Rutland Regional Medical Center (RRMC or “the Applicant”) for a certificate of need (CON) to purchase a GE Healthcare SIGNA Artist 1.5T 96 Channel 29.1 MRI Scanner and renovate the existing MRI space to accommodate the new MRI. The cost of the project is \$3,116,567.

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 October 22, 2021, RRMC filed a CON application and request for expedited review. On November 3, 2021, the Green Mountain Care Board (Board) informed RRMC that expedited review was granted. The Board requested additional information regarding the project on November 16, 2021, which RRMC provided on December 13, 2021. The Board closed the application on December 16, 2021.

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)-(2).

Findings of Fact

1. RRMC is a community hospital serving a population of approximately 60,000 people in Rutland County, portions of southern and central Vermont and communities in eastern New York State. RRMC operates an American College of Radiology (ACR) accredited MRI department and currently operates one twenty-year-old GE 1.5T HDX Echospeed 8 Channel MRI Signa LX scanner. The MRI machine operates weekdays from 7:00 a.m. to 11:00 p.m., and weekends and holidays from 9:00 a.m. to 5:30 p.m. Application (App.), 3.

2. RRMC is seeking to replace its existing twenty-year old equipment for several reasons. RRMC states that the existing equipment was placed in service in 2001. As of 2019, the equipment and all upgrades were fully depreciated. Due to its age, the current MRI has experienced an

increased frequency and duration of downtimes, including delays associated with securing scarce replacement parts. The MRI machine experienced 126 downtime hours over the twelve-month period from June 2020 through June 2021, an average of ten hours and thirty minutes per month. Additionally, GE has discontinued equipment upgrades for the existing MRI. App., 3, 11.

3. RRMC plans to purchase a GE Healthcare SIGNA Artist 1.5T 96 Channel 29.1 MRI Scanner, which has a superior image quality due to improvements in the hardware and software. The new equipment includes accessory items, including MRI magnet safe infusion pumps and patient vital monitors, and technology features that will improve patient comfort. With a wider 70-centimeter bore, the new MRI will accommodate patients of size and patients who have difficulty in confined spaces who will no longer need to travel outside of RRMC's service area to obtain needed MRI imaging. RRMC states that the nearest MRI for patients is at least an hour away. MRI services are a core diagnostic modality necessary to manage health care needs of the population in RRMC's service area. An MRI scanner can be used to take images of any part of the body in any imaging direction and provides better soft tissue contrast than Computed Tomography (CT). MRI scanners do not use the damaging ionizing radiation like CT. App., 3, 12-13.

4. A selection team, which included radiologists and the MRI Lead Technologist, chose the GE system for its superior image quality, enhanced patient friendly coil technology, and better service availability. An MD Buyline Analysis was completed to ensure a competitive price. App., 7.

5. The replacement MRI equipment will not result in new or different services or changes in operating hours, staffing, or charges. The replacement MRI will be staffed by existing personnel, which includes six licensed MRI technologists. The charges for services with the new MRI with and without contrast material will be the same as the charges for the existing MRI. App., 3-4, 12. Response to Questions, (Resp.) (December 13, 2021), 3.

6. The proposed project does not entail any new construction but involves renovating the existing MRI space in the main hospital building at 160 Allen Street. The renovation of the interior vault and equipment room will accommodate a larger equipment footprint for the new MRI and support equipment and comply with updated MRI safety guidelines regarding space configuration. The project also includes renovation of approximately 160 square feet to create new ADA-compliant patient changing booths and interview area. RRMC anticipates that completion of the project will require 19 weeks. During this time, RRMC will use an existing mobile MRI unit located adjacent to the building outside of the Diagnostic Imaging Department. App., 4, 7-8.

7. The capital expense for the project is \$3,116,567. Project costs totaling \$2,249,793 are comprised of \$1,896,210 for the equipment itself, \$86,980 for furnishings/fixtures/other, \$176,603 for architectural/engineering fee, and \$86,980 for owner contingency. Construction costs totaling \$869,795 are comprised of \$749,679 for renovation, \$2,800 for site work, \$74,574 for construction contingency, and \$42,742 for construction manager fee. The cost for the proposed renovation is \$718.84 per square foot. RRMC stated it will obtain multiple competitive bids from all trades

providing services listed in the budget estimate. RRMC will receive a \$60,000 credit for the trade in of the current equipment toward the new MRI machine, which is accounted for in Table 3B, P & L/Income Statement and on the revised Balance Sheets submitted on December 13, 2021. App., 3, 7-8 and Resp. (December 13, 2021), 2 and revised Balance Sheets.

8. RRMC included plans to upgrade the existing MRI machine in its FY 2018 and FY 2019 hospital budget submissions. In 2020, the decision was made to replace the equipment instead of upgrading and was included in the FY 2020 and FY 2021 hospital budget submissions. The capital expenditure will represent 27.2 percent of the FY 2022 capital budget. The project will be funded with working capital and not impose a significant financial burden. RRMC states the project will not result in increased operational costs and will not affect the hospital's charges. App., 9, 14.

9. MRI is used by primary care practitioners and physician and practitioner specialists, including emergency medicine, oncology, orthopedics, and hospital medicine. MRI imaging is essential for cancer diagnosis and follow-up, orthopedic evaluation, triaging emergency department patients for stroke evaluation and neurology. As part of the Medicare.gov Hospital Compare program, the U.S. Department of Health and Human Services (HHS) reports data regarding the percentage of outpatients with low-back pain who had an MRI without trying recommended treatments (like physical therapy). The percentage for RRMC is 36.8% compared to a national average of 39%. App., 4.

10. To further ensure appropriateness of use, improve utilization metrics and enhance quality, RRMC utilizes several tools. RRMC states that each imaging modality has an assigned radiologist or Chief who is responsible for overseeing the modality's quality and outcomes. The MRI Chief and MRI lead Technologist evaluate MRI image quality on an ongoing basis to identify opportunities for improvement for either MRI staff or software performance. The MRI Lead Technologist is responsible for providing feedback and training to MRI technologists when necessary to improve image quality. Practitioners ordering MRIs for Medicare beneficiaries are required to use a decision support tool with appropriate use criteria for all tests being ordered. Additionally, the MRI Lead Technologist at RRMC uses evidence-based criteria from the American College of Radiology (ACR) Appropriateness Criteria to review MRI orders in advance of performing a test to ensure that it is appropriate. RRMC states that another indicator of quality is the MRI cancellation rate. For patients with an identified concern with confined spaces, the Diagnostic Imaging nursing service provides medical support to ensure patient comfort and minimize cancellation and the associated delay in care. RRMC states it has a utilization management process to ensure appropriate MRI utilization and does not use any financial incentives to affect MRI utilization. App., 4-6, 9-10.

11. The main population health benefits of the project are the capacity to assist with high quality care to meet the region's basic health care needs, to reduce costs and support improved outcomes, to facilitate early detection of illness, to evaluate ongoing cancer treatment, and to support RRMC's Orthopaedic program. App., 11.

12. RRMC states that its Infection Prevention (IP) Program complies with The Joint Commission Hospital Accreditation Standard to prevent, control, and investigate infections and communicable diseases. The IP program was reviewed by the Vermont Division of Licensing & Protection on December 15, 2020 and found RRMC to be in substantial compliance with infection control regulatory requirements. The IP program is integrated into individual departments throughout the hospital, including diagnostic imaging. App., 6.

13. RRMC is working closely with Efficiency Vermont on the project. Efficiency Vermont has assigned a designated energy consultant, who will provide support services as part of the design process. App., 8, and Appendix 3.e.

14. The project meets the applicable guidelines set forth in the Guidelines for Design and Construction of Health Care Facilities issued by the Facility Guidelines Institute (FGI), 2018 edition. App., 11 and Appendix 3.d.

15. RRMC states there are no known or perceived conflicts of interest between RRMC, physicians, and the equipment vendor. App., 13.

16. RRMC states that the MRI machine will be located in the main hospital building, which is accessible by car, local bus service, Medicaid Non-Emergency Medical Transportation, and the RRMC operated volunteer transportation program, Bridges and Beyond. App., 15.

17. The project does not involve the purchase or lease of new Health Care Information Technology. App., 15.

18. The project has no relationship to mental health care access. App., 15.

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).

We conclude that the project aligns with statewide health care reform goals and principles. This project will maintain and expand access and improve the quality and availability of critical and core MRI imaging services offered to patients in Rutland County without increasing charges to patients. This MRI is the only MRI located in RRMC's service area. The new MRI will accommodate patients of size and patients who have difficulty in confined spaces who will no longer need to travel outside of RRMC's service area to obtain needed MRI imaging. An MRI scanner is used to take images of any part of the body in any imaging direction and provides better soft tissue contrast than Computed Tomography (CT). MRI imaging is essential for cancer diagnosis and follow-up, orthopedic evaluation, triaging emergency department patients for stroke evaluation, and neurology. Findings of Fact (Findings) ¶¶ 2-3, 5, 9.

The project is also consistent with the HRAP,¹ 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: 1.1 (applicant shall demonstrate how the project will improve relevant quality measures) 1.4 (applicant will maintain appropriate volumes and will not erode volumes at other facilities); 1.6 (applicant will collect and monitor data relating to health care quality and outcomes); 1.7 (project is consistent with evidence-based practice); 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 (applicants subject to the hospital budget review process shall demonstrate that a proposed project has been included in their budget submissions); 3.5 (MRI capacity shall not be increased until capacity is in excess of valid state, regional and/or national benchmarks for medically necessary exams); 3.7 (existing equipment is fully depreciated); 3.19 (applicant shall include an analysis of whether other health care system costs may be reduced through the implementation of the replacement MRI); 3.20 (address appropriateness of such distribution as compared to population, availability of appropriately trained personnel, urgent versus non-urgent use, and appropriate protocol to reduce the risk of repetitive testing); 3.22 (applicant shall establish the clinical efficacy of the diagnoses or procedures to be performed); 3.23 (equipment reduces costs and/or increases quality); and 3.24 (applicant shall disclose potential financial conflicts of interest). *See* Findings, ¶¶ 2-15.

Based on the information 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

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

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).

We conclude that the project’s total cost of \$3,116,567, is reasonable for the purchase of a new GE Healthcare SIGNA Artist 1.5T 96 Channel 29.1 MRI Scanner and the renovations to accommodate equipment. The project involves replacement of existing depreciated equipment. The project will not create an unreasonable financial burden to the applicant and will be financed with working capital. Findings, ¶¶ 7-8.

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. Findings, ¶¶ 2, 4-5. There will not be an increase in charges or rates for services linked to the project. Findings, ¶ 5. The replacement MRI will continue the availability of MRI scans in RRMC’s community at a higher quality. The benefits of the project to the public are tangible and meaningful. Findings, ¶¶ 3-4, 9-11.

We further find that the Applicant has incorporated appropriate energy efficiency measures where feasible and we impose conditions in the CON to ensure that this happens. Findings, ¶ 13.

Finally, the applicant has demonstrated that less expensive alternatives do not exist. Findings, ¶¶ 3-4, 7.

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).

The current MRI scanner is experiencing increased frequency and duration of downtimes, is fully depreciated, and is twenty-years old. A new scanner is needed to provide this core diagnostic service at the hospital. The replacement scanner will have no new functionality but does come with improvements to software and hardware that will provide a better image quality that diagnostically may lead to better patient outcomes. The MRI scanner at RRMC is the only one in its hospital service area. Due to the wider bore of the replacement MRI, it will accommodate persons of size and persons who experience discomfort in confined spaces, eliminating the expense and inconvenience of additional travel to a more distant hospital that has a wider bore MRI. Findings, ¶¶ 2-3.

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 improves the quality of health care and maintains and supports access to a critical service. National and Vermont data suggests that RRMC uses MRI appropriately as a screening tool. Findings, ¶¶ 9-10.

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).

RRMC currently offers MRI services. The project will not have an adverse impact on any other services that RRMC offers. Findings, ¶ 5.

We find that this 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).

The project is accessible by car, local bus service, Medicaid Non-Emergency Medical Transportation, and the RRMC operated volunteer transportation program, Bridges and Beyond. The replacement MRI will be installed at the same location as the existing MRI. Findings, ¶ 16.

VIII.

The eighth statutory criterion states that 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).

As the project does not involve the lease or purchase of a new Health Care Information Technology, this criterion is not applicable.

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).

As the project neither involves mental health care services nor poses any barriers to mental health treatment, the criterion is 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: January 24, 2022 at Montpelier, Vermont.

s/ Kevin Mullin, Chair)
)
s/ Jessica Holmes)
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s/ Robin Lunge)
)
s/ Tom Pelham)
)
s/ Thom Walsh)

GREEN MOUNTAIN
CARE BOARD
OF VERMONT

Filed: January 24, 2022

Attest: Jean Stetter, Administrative Services Director