

**STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD**

In re: The Collaborative Surgery Center )  
 ) GMCB-008-21con  
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**CERTIFICATE OF NEED**

In accordance with Title 18, Chapter 221, subchapter 5, other applicable laws, and the Statement of Decision and Order in this matter, the Green Mountain Care Board issues this certificate of need to The Collaborative Surgery Center, LLC (CSC or applicant), subject to the conditions set forth below.

**Project Description and Scope**

CSC proposes to develop an un-restricted, multi-specialty, ambulatory surgery center (ASC) in Colchester, VT consisting of four operating suites and associated ancillary rooms and offices. The total estimated cost of the proposed project is approximately \$5.3 million.

The project is outlined in greater detail in the Statement of Decision and Order in this docket, incorporated herein and issued today by the Board.

**Project Conditions**

The proposed project, subject to the following conditions, meets the statutory criteria set forth in 18 V.S.A. § 9437:

1. The applicant shall develop and operate the project in strict compliance with the project scope described in the application, in other materials in the record submitted by the applicant, and in strict conformance with the Statement of Decision issued today by the Board. This certificate of need is limited to the project and activities described therein.
2. If the applicant develops a plan to offer specialties other than those approved in the Statement of Decision, it must petition the Board for approval.
3. Within 30 days of receiving this Certificate of Need, CSC shall submit a finalized and fully executed copy of its lease, which shall include provisions to address the calculation of the rent in the event of either cost overruns or cost savings.
4. CSC shall achieve accreditation by the Joint Commission, shall acquire and maintain Medicare certification, and shall acquire and maintain a license from the Vermont Department of Health.

5. The applicant shall require each physician that performs procedures or surgeries at CSC to have admitting privileges at one or more local hospitals and the applicant shall enter into a transfer agreement with at least one local hospital.
6. The applicant shall require all physicians who perform procedures or surgeries at CSC to sign a Collaborative Care Agreement that includes the following principles: (i) timely access to care, (ii) communication, (iii) adherence to widely accepted evidence-based principles of care, and (iv) support of the primary care practice as the Medical Home for most patients.
7. The applicant shall develop a consumer-friendly website which shall be available to the public no later than two weeks prior to CSC commencing operations. The website shall provide information about each physician planning to offer procedures or surgeries at CSC, including, but not limited to, the following:
  - (a) The physician's name, professional credentials, and area(s) of specialization;
  - (b) The types of procedures/surgeries that the physician will perform at CSC;
  - (c) The name and location of hospital(s) where the physician has admitting privileges;
  - (d) The physician's 24/7 contact information in the event of an emergency;
  - (e) Disclosure of any ownership interest in CSC; and
  - (f) The current version of the physician's patient financial assistance (PFA) policy or a link to the policy.
8. The applicant shall develop and implement a policy, which it will post to CSC's consumer website, requiring each physician who performs procedures or surgeries at CSC to use a patient decision aid such as shared decision-making that: a) fully informs the patient of the benefits and risks of all care alternatives; b) incorporates the best available scientific evidence; c) takes into account a patient's values, goals and preferences; and d) advises the patient of the pros and cons, including the comparative costs, of having the procedure performed in an ASC, rather than a hospital. The policy shall include a provision requiring certification by the provider of his or her compliance with such policy.
9. The applicant shall require that each physician who performs procedures or surgeries at CSC maintain after hour on-call policies and 24-hour call coverage to answer patient inquiries. The applicant shall provide all patients with written instructions for after hour care, including instructions, if the patient's condition warrants, to call 911 and go to the nearest emergency room. The applicant shall provide the same emergency information, recorded on its phone line, for after-hour callers.
10. The applicant shall post to its website the commercial, self-pay, and Medicare prices for each of the twenty-five (25) most frequently performed procedures and surgeries, or, if it will result in disclosure of a greater number of prices, the commercial, self-pay, and Medicare prices of each of the procedures and surgeries that comprise at least 75 percent of CSC's overall volume. The applicant shall regularly update this information,

no less than quarterly, whether or not prices or procedures have changed.

11. The applicant shall maintain a Patient Financial Assistance (PFA) policy. The PFA policy shall be updated no less than every two years and shall be at least as generous as UVMHC's PFA policy. A plain language version of the PFA policy shall be posted on the CSC's consumer website.
12. The applicant shall establish procedures to provide:
  - (a) potential patients with written price estimates for their surgeries on request; and
  - (b) all patients with written disclosures in advance of surgery that outline the total price (facility and physician fee) of their procedure or surgery and the portion of the price the patient will be responsible for.
13. The applicant shall periodically, but no less often than annually, post its performance on the required CMS Ambulatory Surgical Center Quality Reporting (ASCQR) Program on its website on a page with a link that is clearly visible on the home page of the website. The applicant shall also participate in the Consumer Assessment of Healthcare Providers and Systems Outpatient and Ambulatory Survey (OAS CAHPS) and either report the results on its website or provide a link to the results.
14. The applicant shall, as part of its quality assurance and performance improvement program, review whether the number of procedures and surgeries performed at CSC is sufficient to ensure quality and incorporate minimal volume thresholds where appropriate based on available medical literature (e.g., a minimum of 50 surgeries for facilities performing total knee replacements or total hip replacements, or a minimum of 25 surgeries for each surgeon).
15. CSC shall include patient and community representation on its Quality Assurance and Performance Improvement Committee. Such representation shall be comprised of unaffiliated individuals who do not have business or familial relationships with any CSC owners or employees.
16. The applicant must successfully negotiate prices with commercial insurers that are lower than any hospital in Vermont. Within 30 days of executing an initial contract and annually thereafter, the applicant must submit letters from Cigna, Blue Cross and Blue Shield of Vermont, and MVP confirming CSC's compliance with this condition. The price of a procedure or surgery that is billed to patients that self-pay may not exceed the lowest price billed to patients covered by commercial insurance.
17. The applicant shall develop and implement a policy, which it shall post to its consumer website, requiring each physician to certify that he or she accepts Medicaid and that he or she shall not consider the source of payment or a patient's ability to pay when determining whether to perform the patient's procedure or surgery at CSC.
18. The applicant shall quarterly compile for inclusion in its next-due implementation report, and post to its website within forty-five (45) days of the close of each quarter, CSC's

payer mix by revenue. In the event that the applicant's payer mix is not in line with its projections in the application, CSC shall include in its implementation report a justification for the deviations and proposed remedies to ensure inclusion of all Vermonters, regardless of payer type.

19. The applicant shall conduct implicit bias training on an annual basis.
20. The applicant shall enter into a participation agreement with one or more risk-bearing accountable care organizations (ACOs) and, prior to the applicant's third full year of operation, negotiate to accept unreconciled fixed payment reimbursement in lieu of fee-for-service for patients attributed to the ACO. In its implementation reports, the applicant shall report on its progress in such discussions.
21. The applicant shall quarterly update and compile for inclusion in its next-due implementation report, the following information:
  - (a) The types of procedures and surgeries performed at CSC and the number of times each procedure and surgery was performed.
  - (b) A breakdown, by payer mix, of the types of procedures and surgeries each physician performed at CSC and at local hospitals (specify the hospital).
  - (c) The number of patients each physician determined were inappropriate for care at CSC and the reason for each determination.

The information in (b) and (c) of this condition is to be submitted confidentially. Within 45 days of the close of each quarter, CSC shall post the information specified in (a)-(c) of this condition on its website. The information on providers may be reported by specialty on the website. In the event there is only one provider for any given specialty, the report posted on the website may note "small numbers prevent us from providing this information," or words to that effect.

22. Before CSC opens, the applicant must demonstrate that conditions 3-9, 11-12, and 15-17, of this certificate of need have been satisfied. The applicant shall file implementation reports with the Board at six-month intervals beginning six (6) months following the date of this certificate of need and continuing for four (4) years following the opening of CSC. In addition to information specified in conditions 10, 13-14, 18, and 20-21 above, the implementation reports shall include the following information and analysis:
  - (a) an overview of the project, including information and analysis demonstrating that the project is in conformance with the scope of the project as described in the application;
  - (b) a verification under oath that the project complies with all conditions imposed in this certificate of need;
  - (c) a spreadsheet separately listing each individual line-item expenditure and, for each expenditure: 1) the total dollar amount approved by the Board; 2) the dollar amount spent through previous reporting periods; 3) the dollar amount spent during this reporting period; 4) the cumulative dollar amount spent to date; 5) the amount remaining in dollars, and 6) the amount remaining as a percentage.
  - (d) notice of any material or nonmaterial change, or verification that no material or

- (e) nonmaterial changes are contemplated or have occurred.
- (e) annually, CSC's profit and loss statement and balance sheet.

- 23. The project as described in the application shall be fully implemented within two (2) years of the date of this certificate of need, or the certificate of need shall become invalid and deemed revoked.
- 24. Noncompliance with any provision of this certificate of need or with applicable ordinances, rules, laws and regulations constitutes a violation of this certificate of need and may be cause for enforcement action pursuant to 18 V.S.A. §§ 9445, 9374(i) and any other applicable law.
- 25. This certificate of need is not transferable or assignable and is issued only for the premises and entity named in the application.
- 26. The Board may, after notice and an opportunity to be heard, make such further orders as are necessary or desirable to accomplish the purposes of this certificate of need, and to ensure compliance with the terms and conditions of this certificate of need.
- 27. All reports, notices, forms, information or submissions of any kind required to be submitted to the Board as a condition of this certificate of need shall be signed by the applicant's chief executive officer and verified by the chief executive officer, or by his or her designated representative.
- 28. The conditions contained in this certificate of need shall remain in effect for the duration of the reporting period defined in condition 22, above.

**SO ORDERED.**

Dated: March 16, 2022, at Montpelier, Vermont.

s/ Robin Lunge )  
 ) GREEN MOUNTAIN  
s/ Tom Pelham ) CARE BOARD  
 ) OF VERMONT  
s/ Thom Walsh )  
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Filed: March 16, 2022

Attest: s/ Jean Stetter  
Green Mountain Care Board  
Administrative Services Director