

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Request of Brattleboro Fire Department)
For a Jurisdictional Determination for) GMCB-001-24con
Provision of Ground Ambulance)
Services)
_____)

Determination of No Jurisdiction

Introduction

On January 16, 2024, Chief Leonard Howard submitted a letter requesting a jurisdictional determination for Brattleboro Fire Department (BFD) to provide ground ambulance services for the Town of Brattleboro (Town) and to other towns that request mutual aid. Chief Howard’s letter provides information (summarized below) regarding the previous provision of this service in Brattleboro and the Town’s proposal for this service beginning July 1, 2024. Based on the representations contained in the documents Chief Howard submitted,¹ we determine that the project is not subject to certificate of need (CON) review under 18 V.S.A. § 9435(a) at this time, as explained below.

Background

According to the request, since the 1980s, BFD has held a first responder service license but has not held an ambulance license. For many years, the Town contracted with Rescue, Inc., a private ambulance service, for ground ambulance transport. Under this arrangement BFD responded to medical emergencies with a fire truck and initiated patient care; Rescue, Inc. then took over care and provided transport. A Dartmouth Hitchcock Medical Center (DH) physician provided medical oversight to BFD.

On July 1, 2022, BFD joined with Golden Cross Ambulance Service (Golden Cross) to enter into a shared staffing model to provide ground ambulance services for the Town. Under this arrangement, Golden Cross holds the ground ambulance service license. While remaining a first response service, BFD has increased its licensure to a first responder service license at a paramedic level; BFD personnel have increased their own licensure and certification levels. Golden Cross has provided vehicles (ambulances) and staffing; BFD has also provided vehicles (fire engines) and staffing. Under this response model, two ambulances are always staffed with one Golden Cross provider and one BFD provider each, while two fire engines are always staffed with BFD staff members; an additional ambulance is operated by BFD staff if needed.

On July 1, 2024, BFD will discontinue its arrangement with Golden Cross and begin directly providing ground ambulance services to the Town. Golden Cross will no longer provide staffing or vehicles. BFD will secure its own ground ambulance service license at the paramedic level; medical oversight will continue to be provided by the DH physician. BFD will add three

¹ In addition to BFD’s correspondence, we received a letter from town attorney Robert Fisher (Jan. 9, 2024). We also received two public comments that raise policy issues beyond the scope of this jurisdictional determination.

ambulances to its resources, purchased with ARPA funds and reflected in the Town's capital investment plan. Seven new positions will be added. Staff time will be allocated between the fire department and emergency medical services. Annual operating expense increases for adding the ambulance services are approximately \$613,000 in FY25; \$635,000 in FY26, and \$658,000 in FY27.

Analysis

To determine whether BFD's plan to offer ground ambulance service requires a certificate of need (CON), we look to the statute to determine jurisdiction. A health care facility must receive a CON to develop a new health care project under certain circumstances. *See* 18 V.S.A. § 9434. We therefore must determine whether BFD is a health care facility; whether the proposed ground ambulance service is a health service; and whether the proposed project is a "new health care project," in the context of Vermont's Health Facility Planning statutes, 18 V.S.A. §§ 9431-9446.

Within this subchapter, the definition of a "health care facility" is "all persons or institutions ... whether public or private ... which offer diagnoses, treatment, inpatient or ambulatory care to two or more unrelated persons...[.]" 18 V.S.A. § 9432(8). Pursuant to this definition, BFD, a public institution offering emergency medical services to Town residents, qualifies as a health care facility. Ground ambulance services, in turn, are "health services," defined as "activities and functions of a health care facility that are directly related to care, treatment, or diagnosis of patients." 18 V.S.A. § 9432(10); *see, e.g., In re: Application of WLRC Medical Inc., for the purchase of AmCare Ambulance Service*, GMCB-009-20con, Decision and Order (Jul. 1, 2021).

A health care facility other than a hospital must receive a certificate of need (CON) to develop a new health care project when it meets certain criteria, including certain financial thresholds, which are updated periodically. *See* 18 V.S.A. § 9434(a) & (e); Green Mountain Care Board, *Certificate of Need Bulletin 004, Adjustments to Certificate of Need Monetary Jurisdictional Thresholds* (Apr. 12, 2023) (CON Bulletin 4). The capital expense threshold for a non-hospital health care facility's health care project is \$1,800,000. 18 V.S.A. § 9434(a)(1); CON Bulletin 4. The project's reported capital expense of \$1,300,000 does not meet the capital expenditure threshold of \$1,800,000.

The statutory non-hospital annual operating expense threshold is \$600,000 in either of the next two budgeted fiscal years *if* the service was *not* offered by the health care facility *within the previous three fiscal years*. 18 V.S.A. § 9434(a)(5); CON Bulletin 4 (emphasis added). This project's incremental annual operating expenses do exceed the current annual operating expense threshold of \$600,000 in project years 1, 2, and 3, with projected expenses of \$613,000, \$635,000, and \$658,000, respectively. Therefore, we must determine whether BFD offered ground ambulance services any time during the previous three fiscal years, FY21-FY24 (July 1, 2021 – June 30, 2024) to decide whether the project will be considered to fall under CON jurisdiction.

The information provided by Chief Howard reflects that BFD has offered ground ambulance services within the previous three fiscal years. Beginning in FY23 (July 1, 2022), BFD

has offered ground ambulance services through its shared staffing model with Golden Cross.² In this arrangement, BFD has provided at least four staff members at any given time and certain non-ambulance vehicles. BFD staff have increased their licensure and certification levels, and BFD upgraded its first responder service license to the paramedic level. Golden Cross held the ground ambulance service license and provided two staff members and three ambulances. In the project now under review, BFD will continue to provide ground ambulance service by purchasing its own ambulances, obtaining its ground ambulance service license at the paramedic level, and increasing personnel. BFD is adjusting the model through which it provides ground ambulance services; it is not initiating an entirely new service.

Based on the representations contained in the documents submitted, the project is not subject to CON review under 18 V.S.A. § 9435(a) at this time. The project does not exceed the capital cost thresholds and because BFD has offered the service (in the form of the shared staffing model with Golden Cross) within the previous three fiscal years, it is not subject to CON jurisdiction by virtue of the annual operating expenses.

As BFD proceeds with developing and implementing this project, if there are any changes in type, scope or cost of the project (including, but not limited to, increases in capital expenses, changes in services/programs offered, the number and/or type of staff, and equipment purchased or leased), BFD is directed to contact the Board immediately so that we may determine whether any further process is necessary. Failure to do so as required by Green Mountain Care Board Rule 4.301(4) may result in sanctions, as specified in 18 V.S.A. § 9445.

Dated: February 9, 2024, at Montpelier, Vermont.

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<u>s/ Owen Foster, Chair</u>)	
)	
<u>s/ Jessica Holmes</u>)	GREEN MOUNTAIN
)	CARE BOARD OF
)	VERMONT
<u>s/ Robin Lunge</u>)	
)	
<u>s/ Thom Walsh</u>)	

**Board Member Murman did not participate in this decision*

Filed: February 9, 2024

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

² The Request did not include sufficient information to discern whether BFD would be considered to have offered ground ambulance services under its contracts with Rescue, Inc. Because the arrangement with Golden Cross took place within the past three fiscal years, we need not make such a determination.

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Board (by email, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (email address: tara.bredice@vermont.gov).