

**STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD**

In re: University of Vermont Medical Center     )  
      Development of an Outpatient            )  
      Surgery Center                            )  
\_\_\_\_\_)

GMCB-004-23con

**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 University of Vermont Medical Center (UVMMC or applicant), subject to the conditions set forth below.

**Project Description and Scope**

The project involves the replacement of the five operating rooms (ORs) at Fanny Allen and the development of a multi-specialty Outpatient Surgery Center (OSC) at 119 Tilley Drive in South Burlington. The total estimated cost of the project is approximately \$129.6 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 project as proposed, 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 its scope as described in the application, in other materials in the record submitted by the applicant, and in strict conformance with the Statement of Decision and Order issued today in this docket. This Certificate of Need is limited to the project and activities described therein.
2. Throughout the project's implementation period, the applicant shall comply with all current and future financial caps, targets and other conditions imposed by the Board in its hospital budget instructions, guidance, and orders.
3. The applicant shall not increase its commercial effective rates or overall change in charges to fund any expenses related to the project.

4. The building and shelled space as designed, with six functional ORs and two unfinished ORs, as described in Conditions 5 and 6 below, shall be fully implemented within four (4) years of the date of this Certificate of Need.
5. Only six of the eight contiguous ORs shown in the architectural plans may be fully fit up and utilized initially. The two remaining OR spaces shall have only infrastructure installed (no finish work); they may not be utilized for patient care without permission from the Board.
6. The three areas shown in the architectural plans as shelled, which include four shelled ORs and 14 shelled pre- and post-operative spaces, may not be fit up or used without permission from the Board.
7. Within 60 days of the date of this Certificate of Need, UVMMC shall submit updated versions of the standard financial tables submitted on June 15, 2023, and the incremental pro forma submitted on April 25, 2024, to reflect the financial impact of the conditions contained in this Certificate of Need and the \$14.4 million in additional surgeon compensation included in the April 25, 2024, pro forma.
8. The applicant shall file semi-annual implementation reports with the Board beginning six months from the date of this Certificate of Need and at six-month intervals thereafter until all current and future components and phases of the project are complete and fully operational and all invoices have been received and paid. This reporting shall continue through the completion and fit up of the seventh and eighth ORs and all the shelled spaces, or the end of 2032, whichever is sooner. These semi-annual implementation reports shall include the following:
  - a. An overview of the project, including any changes in financing, and information and analysis demonstrating that the project fully complies with its scope as approved in this Certificate of Need.
  - b. Documentation of the specific sources, including reserves, used to finance this project, including the source of funds and dollar amount associated with each that equal the total project cost.
  - c. An update on the status of securing the \$150 million tax exempt bond to finance the OSC, the purchase of the Fanny Allen Campus and replacement of the short-term financing of the Dermatology/ Ophthalmology Building.
  - d. 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.

- e. A report on wait times for surgeries for the inpatient and OSC setting separately using the format in UVMMC’s July 11, 2024 response (reproduced below) with columns added for each subsequent report date.

	Sep 8 2023	Nov 3 2023	May 16 2024
Patients Waiting 90+ Days	180	341	304
Patients Waiting 60-90 Days	441	375	220
Patients Waiting 60+ Days (sum)	621	716	524

- f. An update on UVMMC’s plans for the space currently occupied by Fanny Allen’s ORs and procedure rooms.
  - g. A report on the OSC’s payer mix by number of procedures/surgeries and by revenues in accordance with Condition 18, below.
9. The applicant shall also file annual implementation reports with the Board beginning one year from the date of this Certificate of Need and annually thereafter until all components and phases of the project are complete and fully operational and all invoices have been received and paid. This reporting shall continue through the completion and fit up of the seventh and eighth ORs and all the shelled spaces, or the end of 2032, whichever is sooner. These annual implementation reports shall cover the 12-month period preceding the report and shall include the following:
- a. An analysis of commercial reimbursements relative to Medicare reimbursements demonstrating compliance with Condition 10, below.
  - b. An updated incremental pro forma reflecting the line items and data shown on the incremental pro forma submitted pursuant to Condition 7, above, with columns added to show the actuals for each fiscal year beginning with FY 2025 and the percent difference between projected and actual.
  - c. Financial reporting that provides updates to the standard financial tables submitted pursuant to Condition 7, above.
  - d. Financial reporting for both inpatient and outpatient settings broken out by net revenue generated in each setting.
  - e. A report showing utilization rates for ORs and PRs recording the average turnover times for each.
  - f. A report showing WorkRVUs/clinical FTE compared to Sullivan Cotter benchmarks to document productivity gains.

- g. A document in table format showing the number and percentage of FTE travelers proposed and the number of travelers actually employed on the main campus and the OSC reflecting one (1) year prior to opening the OSC and for each reporting period ongoing.
10. UVMHC's commercial reimbursements for surgeries and procedures performed at the OSC shall not exceed 170% of the amount Medicare would reimburse for the same service.
11. Fundraising shall cover at least \$13 million of the project's cost.
12. The applicant may not undertake any paid search campaign relative to competitors or spend money on marketing or advertising to attract patients to the OSC.
13. The price of surgeries billed to patients that self-pay at the OSC shall not exceed the lowest price billed to patients covered by commercial insurance.
14. Two months prior to the OSC becoming operational, UVMHC shall develop an OSC consumer website and post the commercial/self-pay and Medicare prices for each of the 25 most frequently performed surgeries, or, if it will result in disclosure of a greater number of prices, the commercial/self-pay and Medicare prices of surgeries that comprise at least 75% of the OSC's overall volume. The applicant shall regularly update and post this information, no less than quarterly, whether prices have changed or not.
15. The applicant shall provide patients with written price estimates for their surgeries on request. In advance of scheduled surgeries, the applicant will provide all patients with written disclosures that outline the total price of their surgery and the portion of the price for which the patient will be responsible.
16. The applicant shall participate in the CMS Ambulatory Surgical Center Quality Reporting Program and shall periodically, but no less than annually, post its performance on each quality measure on the OSC website.
17. The applicant shall stop using Fanny Allen as a site for outpatient surgical care.
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, the OSC's payer mix by number of procedures/surgeries and by revenues.
19. This Certificate of Need is not transferable or assignable and is issued only for the premises and entity named in the application.
20. If the applicant contemplates or becomes aware of a nonmaterial change, as defined in 18 V.S.A. § 9432(12), or a material change as defined in 18 V.S.A. § 9432(11), to the scope or cost of the project described in its application and as designated in this Certificate of Need, the applicant shall file a notice of such change immediately with the Board. The

Board shall thereafter advise the applicant whether the proposed change is subject to additional review.

21. The Board, after providing the applicant notice and an opportunity to be heard, may make such further orders as are necessary or desirable to accomplish the purposes of this Certificate of Need and to ensure compliance with its terms and conditions.
22. 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 and verified by the applicant's Chief Executive Officer, or by his or her designated representative.
23. The conditions contained in this Certificate of Need shall remain in effect for the duration of the reporting period set forth in Conditions 8 and 9, above.
24. Noncompliance with any provision of this certificate of need or with applicable laws or regulations may be cause for enforcement action pursuant to 18 V.S.A. § 9445.

**SO ORDERED.**

Dated: July 29, 2024, at Montpelier, Vermont.

s/ Owen Foster, Chair )  
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s/ Jessica Holmes )  
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s/ Robin Lunge )

GREEN MOUNTAIN  
CARE BOARD OF  
VERMONT

Filed: July 29, 2024

Attest: /s/ Jean Stetter, Administrative Services Director