

# CON Dollar Thresholds

March 2, 2022



# Jurisdictional “Triggers” with Dollar Thresholds

Hospitals	Non-Hospitals
Construction, development, purchase, renovation, or other establishment of a health care facility or any capital expenditure by or on behalf of a hospital for which the capital cost exceeds <b>\$3M</b>	<b>\$1.5M</b>
The purchase, lease, or other comparable arrangement for a single piece of diagnostic and therapeutic equipment for which the cost, of in the case of a donation the value, is in excess of <b>\$1.5M</b>	<b>\$1M</b>
The offering of a health care service or technology having an annual operating expense that exceeds <b>\$1M</b> for either of the next two budgeted fiscal years, if the service or technology was not offered or employed by the hospital within the previous three fiscal years	<b>\$500K</b>

# Conceptual CON Dollar Thresholds

Hospitals	Non-Hospitals
Planning activities where project is anticipated to cost in excess of \$30M.	Same
Exclusion for expenditures not exceeding \$3M made in preparation for obtaining a conceptual CON	\$1.5M

# Exclusion

- The “offices of physicians, dentists, and other practitioners of the healing arts, meaning the physical places that are occupied by such providers on a regular basis in which such providers perform the range of diagnostic and treatment services usually performed by such providers on an outpatient basis . . . .”
  - Does not apply to offices owned, operated, or leased by a hospital or its subsidiary, parent, or holding company, outpatient diagnostic or therapy programs, kidney disease treatment centers, independent diagnostic laboratories, cardiac catheterization laboratories, radiation therapy facilities, ASCs, and diagnostic imaging facilities and similar facilities owned or operated by a physician, dentist, or other practitioner of the healing arts.
  - Does not apply to purchases of diagnostic and therapeutic equipment costing in excess of \$1M by a health care facility other than a hospital.

# Authority to Adjust Dollar Thresholds

- 18 V.S.A. § 9434(e): The Board may periodically adjust the monetary thresholds. In doing so, the Board must reflect the same categories of health care facilities, services, and programs recognized in the statute. Any adjustment by the Board shall not exceed an amount calculated using the cumulative Consumer Price Index rate of inflation.

# History of Adjustment Authority



- 2003 (Act No. 53, H.128), Sec. 10  
Beginning January 1, 2005, and biannually thereafter, the commissioner may by rule adjust the monetary jurisdictional thresholds contained in this section. In doing so, the commissioner shall reflect the same categories of health care facilities, services, and programs recognized in this section. Any adjustment by the commissioner shall not exceed the consumer price index rate of inflation.
- 2012 (Act No. 171, H.559), Sec. 16  
Beginning January 1, ~~2005-2013~~, and biannually thereafter, the ~~commissioner~~ board may by rule adjust the monetary jurisdictional thresholds contained in this section. In doing so, the ~~commissioner~~ board shall reflect the same categories of health care facilities, services, and programs recognized in this section. Any adjustment by the ~~commissioner~~ board shall not exceed the consumer price index rate of inflation
- 2018 (Act No. 167, H.912), Sec. 6  
~~Beginning January 1, 2013, and biannually thereafter, the~~ The Board may ~~by rule~~ periodically adjust the monetary jurisdictional thresholds contained in this section. In doing so, the Board shall reflect the same categories of health care facilities, services, and programs recognized in this section. Any adjustment by the Board shall not exceed an amount calculated using the cumulative Consumer Price Index rate of inflation.

# Dollar Thresholds – Dates of Last Revision



Category § 9434	\$ CON Threshold	Last Revised Date
(a)(1) Non-Hospital Capital Cost	1,500,000	7/1/2003 2003, No. 53, § 10
(a)(4) Non-Hospital Equipment Cost	1,000,000	7/1/2003 2003, No. 53, § 10
(a)(5) Non-Hospital Operating Cost	500,000	7/1/2003 2003, No. 53, § 10
(b)(1) Hospital Capital Cost	3,000,000	7/1/2003 2003, No. 53, § 10
(b)(2) Hospital Equipment Cost	1,500,000	7/1/2018 (from \$1,000,000) 2017, Adj. Sess, No. 167, § 6
(b)(3) Hospital Operating Cost	1,000,000	7/1/2018 (from \$500,000) 2017, Adj. Sess, No. 167, § 6
(c) Conceptual	30,000,000	7/1/2007 (from \$20,000,000) 2007, No. 27, § 7
(c) Non-Hospital Exemption for expenditures made in preparation for obtaining Conceptual CON	1,500,000	7/1/2007 2007, No. 27, § 7
(c) Hospital Exemption for expenditures made in preparation for obtaining Conceptual CON	3,000,000	7/1/2007 2007, No. 27, § 7

# 2017 Revision

Hospital thresholds for equipment and new services were increased effective 7/1/2018 to national median based on 2016 survey.

By or on behalf of a hospital			
	Capital	Equipment	New Service
Vermont	\$3,000,000	\$1,000,000	\$500,000
MEAN	\$5,991,772	\$1,942,137	\$1,188,811
MEDIAN	\$3,000,000	\$1,500,000	\$1,000,000
RANGE (low)	\$300,000	\$250,000	\$150,000
RANGE (high)	\$50,000,000	\$6,000,000	\$3,242,028

Source: 2016 National Directory State Certificate of Need Programs Health Planning Agencies, American Health Planning Association



# Approach to Calculating Cumulative CPI

Start from July 2018

- All thresholds were examined at this time and certain hospital thresholds were increased.

Calculate cumulative CPI using CPI-U all items all cities and CPI-U medical care all cities

- CPI-U all items is a weighted average of sub-indices for different categories of consumer goods and services, such as transportation, food, and medical care.
- CPI-U medical care is the sub-index for medical care and measures changes in total reimbursement to medical care providers.

# CPI Rate of Inflation

CPI-U medical care has historically grown faster than CPI-U all items.

Time Period	Growth in CPI-U All Items	Growth in CPI-U Medical
1/2005 - 1/2022	47.43%	77.37%

However, from July 2018 to the present, CPI-U all items has grown faster than CPI-medical care.

Time Period	Growth in CPI-U All Items	Growth in CPI-Medical
7/2018 - 1/2022	12.18%	10.21%

# Hospital Cumulative CPI Calculations

Hospital	CPI-U All Items	CPI-U Medical Care
Capital Cost of \$3.0M	\$3,365,386	\$3,306,420
Equipment Cost of \$1.5M	\$1,682,693	\$1,653,210
Operating Cost of \$1.0M	\$1,121,795	\$1,102,140

# Non-Hospital Cumulative CPI Calculations

Non-Hospital	CPI-U All Items	CPI-U Medical Care
Capital Cost of \$1.5M	\$1,682,693	\$1,653,210
Equipment Cost of \$1.0M	\$1,121,795	\$1,102,140
Operating Cost of \$0.5M	\$560,898	\$551,070

# CCON Cumulative CPI Calculations



## Conceptual CON

All Facilities	CPI-U All Items	CPI-U Medical Care
Project Cost of \$30M	\$33,653,864	\$33,064,200

## Exemption for Expenditures Made in Preparation for Obtaining a Conceptual CON

Hospital	CPI-U All Items	CPI-U Medical Care
\$3M	\$3,365,386	\$3,306,420
Non-Hospital	CPI-U All Items	CPI-U Medical Care
\$1.5M	\$1,682,693	\$1,653,210

# Vermont - Jurisdiction

- CONs Issued\*

2018	2019	2020	2021
7	5	5	6

- No Jurisdiction Letters Issued\*\*

2018	2019	2020	2021
19	8	4	10

\*Does not include project changes (e.g., EPIC expansion).

\*\* May not match numbers in GMCB Annual Report.

# CONs Issued - 2018

## **UVMHC:** EMR Replacement Project (Epic).

- Cost: \$152M – (b)(1) capital cost
- Application to Closure: 144 days (review extended)
- Closure to Decision: 94

## **RRMC:** Construction of two-story medical office building housing ENT and orthopedic practices.

- Cost: \$23.8M – (b)(1) capital cost
- Application to Closure: 39 days
- Closure to Decision: 69 days

## **Kindred Healthcare:** Corporate restructuring.

- Cost N/A – (a)(3) change in ownership
- Application to Closure: 17 days
- Closure to Decision: 7 days

## **UVMHC:** Purchase of leased office buildings at Tilley Drive.

- Cost: \$22.1M - (b)(1) capital cost
- Application to Closure: 31 days
- Closure to Decision: 4 days

# CONs Issued - 2018

**Gifford Health Care:** Construction of 49-unit independent living facility.

- Cost: \$14.1M – (b)(1) capital cost
- Application to Closure: 54 days
- Closure to Decision: 24 days

**NVRH:** Replacement of mobile MRI with fixed MRI and related renovations.

- Cost: \$3.2M – (b)(1) & (2) capital and equipment cost
- Application to Closure: 63 days
- Closure to Decision: 32 days

**UVMHC:** Replacement of angiography system (interventional radiology) and related renovations.

- Cost: \$2.1M – (b)(2) equipment cost
- Application to Closure: 46 days
- Closure to Decision: 36 days



# CONs Issued - 2019\*

**RRMC:** Replacement of CT scanner and related renovations.

- Cost: \$2.0M – (b)(2) equipment cost
- Application to Closure: 62 days
- Closure to Decision: 25 days

**UVMCMC:** Purchase of land to construct replacement building for Essex Adult Primary Care.

- Cost \$8.6M – (b)(1) capital cost
- Application to Closure: 61 days
- Closure to Decision: 58 days

**RRMC:** Renovation of Psychiatric Services Inpatient Unit to remediate ligature risks (emergency review)

- Cost: \$4.1M – (b)(1) capital cost
- Application to Closure: 18 days
- Closure to Decision: 1 day

\*Does not include Green Mountain Surgery Center – project approved in 2017

# CONs Issued - 2019\*

**UVMHC:** Replacement of MRI system and related renovations.

- Cost: \$2.9M – (b)(1) & (b)(2) capital and equipment cost
- Application to Closure: 42 days
- Closure to Decision: 29 days

**Valley Vista:** Conversion of youth beds to adult beds.

- Cost: N/A– (a)(2) change in number of licensed beds
- Application to Closure: 57 days
- Closure to Decision: 25 days

\*Does not include Green Mountain Surgery Center – project approved in 2017

# CONs Issued - 2020\*

**Vermont Open MRI:** Purchase of MRI system and related renovations in new building.

- Cost: \$1.9M – (a)(4) equipment cost
- Application to Closure: 58 days
- Closure to Decision: 13 days

**NMC:** Renovations to ED

- Cost: \$7.6M – (b)(1) capital cost
- Application to Closure: 77 days
- Closure to Decision: 80 days

**Silver Pines:** Development of medically supervised withdrawal treatment center.

- Cost: \$5.3M – (a)(5) operating cost
- Application to Closure: 73 days
- Closure to Decision: 110 days

**SVMC:** Construction and renovation of ED and front entrance.

- Cost: \$25.8M – (b)(2) capital cost
- Application to Closure: 55 days
- Closure to Decision: 95 days

\*Does not include expansion of Epic to NY hospitals – project approved in 2018

# CONs Issued – 2021\*

## **WLRC Medical:** Purchase of ambulance service.

- Cost: \$2.5M – (a)(1) capital cost and (a)(3) change in ownership
- Application to Closure: 58 days
- Closure to Decision: 36 days

## **VHN of VT and NH:** Electronic health record.

- Cost: \$5.9M – (a)(1) capital cost
- Application to Closure: 49 days
- Closure to Decision: 56 days

## **DMH:** Secure residential treatment program in Essex.

- Cost: \$22M – (a)(1) capital cost
- Application to Closure: 42 days
- Closure to Decision: 26 days

\*Does not include change to BMH's construction of four-story medical office building project – project approved in 2017

# CONs Issued – 2021\*

## **Veterans' Home:** Security and access control improvements.

- Cost: \$2.6M – (a)(1) capital cost
- Application to Closure: 31 days
- Closure to Decision: 36 days

## **UVMHC:** Purchase of new MRI scanner and related construction.

- Cost: \$4.1M – (b)(1) & (b)(2) capital and equipment cost
- Application to Closure: 49 days
- Closure to Decision: 14 days

## **UVMHC:** Planning for developing outpatient surgery center.

- Cost: >\$30M (c) conceptual
- Application to Closure: 43 days
- Closure to Decision: 17 days

\*Does not include change to BMH's construction of four-story medical office building project – project approved in 2017

# Vermont – Review Process



- GMCB has 90 days to review and close a CON application.
  - Period may be extended for an additional 60 days.
  - Time during which the applicant is responding to requests for additional information is not included.
- GMCB must make a final decision within 120 days after the date the application is closed.
  - Period may be extended for an additional 30 days.
- Expedited review procedures apply to certain types of projects.
  - Permits issuance of CON no less than 20 days after public notice of application and request for expedited review.
  - No hearing required.
  - Project comes out of expedited review if there are interested parties or competing applicants, except interested parties and competing applicants may waive hearing.
- For projects approved between 2018 and 2021 (excluding changes):
  - GMCB granted 16 requests for expedited review and denied 2 requests.
  - On average, GMCB took 53 days to close application (14 expedited, 1 emergency, and 7 regular) and 40 days to issue a CON from the close date.

# New England Comparisons: Rhode Island



Covered Project	Threshold
Construction or Renovation	≈\$6.2M
Health Care Equipment (other than tertiary or specialty)	≈\$2.6M
New Health Service (annualized operating cost)	≈\$1.8M
Tertiary or specialty care (MRI, CT, cardiac catheterization, PET, linear accelerators, open heart surgery, organ transplantation, neonatal intensive care)	\$0 for new or expanded services

# New England Comparisons: Massachusetts



Covered Project	Threshold*
Expenditures for medical, diagnostic, or therapeutic equipment by or for health care facilities other than hospitals	≈\$1.1M
All other expenditures and acquisitions by or for health care facilities other than hospitals (except exceptions apply)	≈\$2.3M
Expenditures and acquisitions made by or for hospitals and comprehensive cancer centers (exceptions apply)	≈\$21.5M
Expenditures and acquisitions concerned solely with outpatient services other than ambulatory surgery and not otherwise defined as DoN-required equipment or DoN-required services	≈\$35M

\*By law, instead of CPI, MA has performed annual adjustments to DoN expenditure minimums using Marshall & Swift indices for capital expenditures involving construction and equipment.



# New England Comparisons: Maine



Covered Project	Threshold*
Capital Expenditures – new or existing hospitals; other existing healthcare facilities excluding nursing facilities	≈\$13.3M
Nursing Facility: new or existing nursing facility; expenditures related to nursing services	≈\$6.7M
New Nursing Facility	\$5M
New Healthcare Facility	\$3M
Major Medical Equipment	≈\$4.27M
New Health Service – Capital Expenditures	≈\$4M
New Health Service – 3 <sup>rd</sup> year incremental annual operating costs	≈\$1.3M
New Technology in private office of healthcare practitioner is a new health service	≈\$4.3M

\* Certain thresholds are automatically updated annually by CPI medical care index.

# New England Comparisons: Connecticut



- Connecticut does not have dollar thresholds; review is triggered by the type of project involved.
- A CON is required for
  - Establishment of a new health care facility, defined to include licensed hospitals, specialty hospitals, freestanding EDs, and mental health facilities and substance abuse treatment facilities.
  - A transfer of ownership of a health care facility.
  - A transfer of ownership of a large group practice to any entity other than a physician or group of physicians organized in a PC or LLC and not employed by or affiliated with any hospital, medical foundation, insurance company or similar entity.
  - The establishment of a freestanding ED.
  - The termination of hospital inpatient or outpatient services.
  - The establishment of an outpatient surgical facility.
  - The termination of surgical services by an outpatient surgical facility (excluding terminations due to insufficient patient volume and terminations of any subspecialty surgical service).