

CON Monetary Jurisdictional Thresholds

April 5, 2023

Legal Context

- Many of the triggers for CON review have a “monetary jurisdictional threshold” in them.
 - E.g., “The purchase, lease, or other comparable arrangement of a single piece of diagnostic and therapeutic equipment for which the cost, or in the case of a donation the value, is in excess of \$1,000,000.00.”
- The GMCB may adjust these thresholds, provided that adjustments do not exceed the cumulative rate of inflation (measured by CPI).
 - 18 V.S.A. § 9434(e): “The Board may periodically adjust the monetary jurisdictional thresholds contained in this section . . . Any adjustment by the Board shall not exceed an amount calculated using the cumulative Consumer Price Index rate of inflation.”

CON Bulletin 004

- On March 30, 2022, the GMCB voted to increase each monetary threshold by **12.8%**, the seasonally adjusted rate of growth in the Consumer Price Index for All Urban Consumers (CPI-U), all items, between July 2018 - the last time the General Assembly amended the thresholds - and February 2022.
 - Growth in CPI-U, medical care, over the same period was 10.21%.
- The increases were implemented through an administrative bulletin.
 - The law used to require that adjustments be made by rule, but this requirement was eliminated in 2018.

Current 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 \$3,000,000.00 <u>\$3,365,386.00</u> .	\$1,500,000.00 <u>\$1,682,693.00</u>
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 \$1,500,000.00 <u>\$1,682,693.00</u>	\$1,000,000.00 <u>\$1,121,795.00</u>
The offering of a health care service or technology having an annual operating expense that exceeds \$1,000,000.00 <u>\$1,121,795.00</u> 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.	\$500,000.00 <u>\$560,898.00</u>



Current Thresholds



Hospitals	Non-Hospitals
Planning activities where project is anticipated to cost in excess of \$30,000,000.00 <u>\$33,653,864.00</u>	Same
Exclusion for expenditures not exceeding \$3,000,000.00 <u>\$3,365,386.00</u> made in preparation for obtaining a conceptual CON.	\$1,500,000.00 <u>\$1,682,693.00</u>



Potential Revisions



Growth in CPI-U, all items, between July 2018 and February 2023 is approximately **20.02%**.
 Growth in CPI-U, medical care, over the same time period is approximately **13.07%**.

Category	Base	Current	CPI-U all items	CPI-U medical care
(a)(1) Non-hospital capital expenditure	\$1,500,000	\$1,682,693	\$1,800,360	\$1,695,981
(a)(4) Non-hospital equipment cost	\$1,000,000	\$1,121,795	\$1,200,240	\$1,130,654
(a)(5) Non-hospital annual operating expense for new service	\$500,000	\$560,898	\$600,120	\$565,327
(b)(1) Hospital capital expenditure	\$3,000,000	\$3,365,386	\$3,600,721	\$3,391,962
(b)(2) Hospital equipment cost	\$1,500,000	\$1,682,693	\$1,800,360	\$1,695,981
(b)(3) Hospital operating expense for new service	\$1,000,000	\$1,121,795	\$1,200,240	\$1,130,654
(c) Conceptual	\$30,000,000	\$33,653,864	\$36,007,210	\$33,919,618
(c) Non-hospital conceptual exclusion	\$1,500,000	\$1,682,693	\$1,800,360	\$1,695,981
(c) Hospital conceptual exclusion	\$3,000,000	\$3,365,386	\$3,600,721	\$3,391,962

Neighboring States - ME



Category (ME)	ME Min.	VT Mins. - Current / Max Revision
Capital expenditures*	Nursing home ≈ \$6.96M* Other ≈ \$13.92M*	Hospital ≈ \$3.37M / \$3.60M Other ≈ \$1.68M / \$1.80M
New health care facility	Nursing home = \$5M Other = \$3M	
New health service – capital expenditure*	≈ \$4.45M*	
New health service – annual operating costs*	≈ \$1.39M*	Hospital ≈ \$1.12M / \$1.20M Other ≈ \$561K / \$600K
Major medical equipment*	≈ \$4.45M*	Hospital ≈ \$1.68M / \$1.80M Other ≈ \$1.12M / \$1.20M
New technology in private office of healthcare practitioner*	\$4.45M*	Exempt

*Updated annually by growth in CPI medical care services.

Source: <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/Thresholds.pdf>.



Neighboring States - RI



Category (RI)	RI Min.	VT Mins. - Current / Max Revision
Construction, development, or establishment of new health care facility	None	Hospital ≈ \$3.37M / \$3.60M Other ≈ \$1.68M / \$1.80M
Capital expenditure for construction or renovation of health care facility	\$7.13M*	Hospital ≈ \$3.37M / \$3.60M Other ≈ \$1.68M / \$1.80M
Capital expenditure for health care equipment (other than tertiary or specialty)	\$3.06M*	Hospital ≈ \$1.68M / \$1.80M Other ≈ \$1.12M / \$1.20M
New health service – annual operating cost	\$2.04M*	Hospital ≈ \$1.12M / \$1.20M Other ≈ \$561K / \$600K
New tertiary or specialty care services (full body MRI, CT, cardiac catheterization, PET, linear accelerators, open heart surgery, organ transplantation, neonatal intensive care) or expansion of such services involving additional equipment or facilities	None	

*Updated annually by growth in CPI all items.

Source: https://health.ri.gov/programs/detail.php?pgm_id=1012



Neighboring States - MA



Category (MA)	MA Min.	VT Mins. - Current / Max Revision
DON-required equipment (CT, MRI, PET)	None	Hospital ≈ \$1.68M / \$1.80M Other ≈ \$1.12M / \$1.20M
DON-required services (air ambulance and megavoltage radiation therapy)	None	Hospital OpEx ≈ \$1.12M / \$1.20M Other OpEx ≈ \$561K / \$600K Addition of licensed beds = no min.
Capital expenditure for purchase of medical, diagnostic, or therapeutic equipment for use in a location other than a health care facility	≈ \$384K*	N/A
Capital expenditures for medical, diagnostic, or therapeutic equipment by health care facilities other than hospitals	≈ \$1.38M*	≈ \$1.12M / \$1.20M
All other capital expenditures by health care facilities other than hospitals (w/ exceptions)	≈ \$2.77M*	≈ \$1.68M / \$1.80M
Capital expenditures by hospitals and cancer centers (w/ exceptions)	≈ \$25.94M*	≈ \$3.37M / \$3.60M
Capital expenditures concerned solely with outpatient services other than ambulatory surgery and not defined as DON-required equipment or services	≈ \$42.32M*	N/A

*Updated annually using Marshall & Swift indices for capital expenditures involving construction and equipment.

Sources: <https://www.mass.gov/doc/expenditure-minimums-for-applying-for-a-don-2022-23-pdf/download>, <https://www.mass.gov/doc/equipment-and-services-0/download>



Hospital Projects (18-23)



- **Hospital CapEx Threshold: \$3.37M (\$3.6M w/ max revision)**
 - 2018
 - RRMC construction of MOB and various renovations: \$23.88M
 - UVMC purchase of real estate at Tilley Drive: \$22.12M
 - UVMC EMR Replacement: \$109.25M (increased \$15.7M in 2020 with expansion)
 - 2019
 - UVMC construction of replacement building for Essex Adult Primary Care: \$8.62M
 - RRMC renovation of psychiatric unit to remediate ligature risks: \$4.07M
 - 2020
 - SVMC construction/renovation of ED and front entrance: \$25.8M (\$31M by 2022)
 - NMC construction/renovation of ED: \$7.62M (\$10.88M by 2022)

Hospital Projects (18-23)



- **Hospital CapEx Threshold: \$3.37M (\$3.6M w/ max revision)**
 - 2021
 - BMH construction of a four-story MOB and replacement of boilers: \$22.69M (increased to \$26.75M by 2021)
 - 2022
 - Copley replacement of Mansfield Orthopedics MOB: \$5.9M
 - NCH construction of two-story addition and renovation of ED and PT/OT/ST depts: \$27.9M
 - UVMMC expansion and consolidation of outpatient pharmacy: \$5.81M
 - 2023
 - UVMMC relocation of dermatology and ophthalmology practices: \$35.25M
 - **Conceptual CON required (\$33.6M currently and \$36M w/ max revision)**
 - UVMMC construction of outpatient surgery center (pending): \$129.6M
 - Conceptual CON
 - NVRH construction / renovation of ED and expansion / renovation of laboratory: \$14.46M
 - No application yet
 - Grace Cottage construction of primary care practice building: \$18M
 - No application yet.

Hospital Projects (18-23)

- **Hospital Equipment Threshold: \$1.68M (\$1.8M w/ max revision)**
 - 2018
 - NVRH replacement of mobile MRI unit with fixed MRI unit and renovations: \$3.19M
 - Tripped **capital expenditure (\$3M at the time)** and equipment thresholds.
 - UVMC replacement of angiography system and renovations: \$2.14M
 - 2019
 - RRMC replacement of CT scanner and renovations: \$2.02M
 - UVMC replacement of MRI system and renovations: \$2.86M
 - 2021
 - UVMC purchase and installation of MRI system and construction: \$4.08M
 - Tripped capital expenditure and equipment thresholds.

Hospital Projects (18-23)



- Hospital Equipment Threshold: \$1.68M (\$1.8M w/ max revision)
 - 2022
 - RRMC replacement of MRI system and renovations: \$3.12M
 - Tripped capital expenditure (\$3M at the time) and equipment thresholds.
 - 2023
 - UMVMC purchase of da Vinci robotic surgical system: \$2.46M
 - UVMC replacement of CT scanner and renovations + construction (pending): \$3.46M
 - Tripped capital expenditure (\$3.37M) and equipment thresholds.

Non-Hospital Projects (18-23)



- **Non-Hospital CapEx Threshold: \$1.68M (\$1.8M w/ max revision)**
 - 2018
 - Gifford Health Care's construction of independent living facility: \$14.14M
 - 2021
 - Vermont Veterans' Home security and access control: \$2.62M
 - DMH construction of secure residential: \$21.9M (increased to \$24.79M by 2022)
 - Visiting Nurse and Hospice for VT & NH EHR replacement: \$5.87M
 - WLRC Medical Inc. purchase of AmCare ambulance service: \$2.54M
 - 2023
 - Vernon Homes construction of replacement SNF (pending): \$31M

Non-Hospital Projects (18-23)



- **Non-Hospital Equipment Threshold: \$1.12M (\$1.2 w/ max revision)**
 - 2020
 - Vermont Open MRI purchase and installation of new MRI system and renovations: \$1.85M
- **Annual OpEx Threshold: \$561K (\$600K w/ max revision)**
 - 2019
 - Silver Pines development of SUD treatment facility: \$5.35 - \$7.65M
 - Northern Lights Recovery Center development of SUD treatment facility: \$2.46 - \$2.74M
 - 2021
 - Kahm Clinic development of eating disorder treatment program: \$1.48 - \$1.95M
 - 2023
 - BAART Behavioral Health Services Opioid Treatment Program: \$1.01 - \$1.16M
 - No application yet.
 - Belonging Medical Group expansion to become Spoke provider: \$1.19 - \$1.48M
 - No application yet.

QUESTIONS?

