

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.
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.
Construction, development, or establishment of new health care facility	N/A	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 or expanded tertiary or specialty care services (e.g. full body MRI, CT, cardiac catheterization, PET, linear accelerators, open heart surgery, organ transplantation).	N/A	

*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.
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 a hospital (with exceptions)	≈ \$2.77M*	≈ \$1.68M / \$1.80M
Capital expenditures by hospitals and cancer centers (with 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.

** Some types of equipment (e.g, CT, MRI, and PET) require a DON regardless of dollar value

Source: <https://www.mass.gov/doc/expenditure-minimums-for-applying-for-a-don-2022-23-pdf/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.
 - UVMHC replacement of angiography system and renovations: \$2.14M
 - 2019
 - RRMC replacement of CT scanner and renovations: \$2.02M
 - UVMHC replacement of MRI system and renovations: \$2.86M
 - 2021
 - UVMHC 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?

