

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Application of Southwestern Vermont)
 Medical Center, Replacement of) GMCB-006-15con
 Linear Accelerator)
_____)

STATEMENT OF DECISION AND ORDER

Introduction

Southwestern Vermont Medical Center (SVMC or applicant) seeks to replace the existing Siemens Oncor Impression linear accelerator at SVMC’s cancer center with a Varian Trilogy Silhouette (Slim) SRS/SBRT Linear Accelerator System. For the reasons outlined below, we approve the application.

Procedural Background

On July 16, 2015, SVMC filed a certificate of need (CON) application with the Green Mountain Care Board. On July 21, 2015 SVMC submitted scalable schematic level floor plans of renovations associated with the project. After public notice, the Board granted SVMC expedited review of the project pursuant to 18 V.S.A. § 9440(c)(5). The Board requested additional information from the applicant on September 11, 2015. The applicant provided responses to the request on October 1, 2015.¹ The application was closed on October 12, 2015.

Findings of Fact

1. SVMC has offered its radiation oncology program since 1996, the year it installed and began using a Siemens Mevatron linear accelerator to provide radiation treatment for patients with cancer. In 2006, SVMC installed a Siemens Oncor accelerator which is still in use today. In its CON application, SVMC is seeking approval to replace the Siemens Oncor purchased in 2006 with a Varian Trilogy Silhouette (Slim) SRS/SBRT linear accelerator. Application at 10, 11.
2. SVMC chose the Varian accelerator based on its performance and documented up-times and because it fits within the current vault and will not require the purchase of additional shielding. Additionally, SVMC received discounted pricing based on its relationship with Dartmouth-Hitchcock’s Norris Cotton Cancer Center. Application at 12, 22. Varian has documented that it will support and upgrade the accelerator for 10-12 years after purchase. Responses (10/1/15) at 1.

¹ The response to the Board’s request for additional information was received from SVMC on October 1, 2015; the document however, is dated September 24, 2015.

3. Since 1996, the radiation oncology program has cared for approximately 3,000 patients and delivered 80,000 treatments. Application at 11. Annually, the program delivers approximately 10,000 treatments. Application at 19.
4. Radiation therapy for cancer using a linear accelerator usually requires a patient to undergo multiple weeks of treatment, typically 15 minutes per day, five days a week, for five to six weeks. Given the patient's illness and required therapy time, it is important that treatments are available as close to home as possible. Application at 10.
5. SVMC's current linear accelerator is the only one in Vermont without on-board image guidance. In contrast, the replacement accelerator will include on-board image guidance through a cone-beam CT and axial image reconstruction which has become the industry standard, and which is capable of targeting tumors with precision and treating small areas with a higher dose rate and higher energy radiation. Application at 10. This advanced capability reduces damage to adjacent healthy tissues and shortens treatment time, which in turn decreases toxicity to the patient.
6. The replacement accelerator will provide flexibility to treat a wide range of cancers, including cancers not treatable with the current accelerator, and can perform the following new procedures: stereotactic body radiation therapy (SBRT), cone-beam computed tomography (CBCT), digital kilovolt x-ray imaging, volume modulated arch therapy (VMAT) and rapid arc. Application at 11. Patients that currently must travel significant distances from their homes for these procedures will be able to receive treatment at SVMC. *Id.* at 14.
7. SVMC's radiation oncologist is employed by Dartmouth-Hitchcock Putnam Physicians, a physicians' group affiliated with Dartmouth-Hitchcock Norris Cotton Cancer Center (Dartmouth-Hitchcock). Application at 30. The treatment regimen for every new patient is therefore reviewed at weekly meetings with Dartmouth-Hitchcock to ensure that patients receive appropriate treatment that conform to treatment guidelines and recommendations developed by entities such as the National Comprehensive Cancer Network, the American Society of Radiation Oncology, the American College of Surgeons and the American Society of Clinical Oncology. Over the past five years, SVMC's oncology care has been fully compliant with National Comprehensive Cancer Network guidelines. SVMC's radiation oncologist adheres to the American Board of Radiology maintenance board certification program by conducting practice quality evaluations and adjusting practice patterns in accordance with the evaluations' findings. Application at 20-21. In addition, SVMC is working towards accreditation of its program from the American College of Radiology. Responses (10/1/15) at 2-3.
8. The project requires no additional staffing. The renovations required to accommodate the replacement accelerator comply with applicable FGI guidelines for the Design and Construction of Health Care Facilities.
9. The total cost of the purchase and installation of the new replacement accelerator is \$3,949,294, which includes removal and disposal of the existing accelerator (which is fully

depreciated), accessories, commissioning, renovation of the current room and vault, upgrade of electrical and mechanical infrastructure, and software, service agreement and training costs. Application at 11-12.

10. The \$3,949,294 will be funded from an equity contribution of operating cash and cash reserves. Application at 30; *Id.* at Table 2.
11. SVMC projects some revenue increases (less than one-half of one percent) due to the new treatments that are possible with the replacement accelerator. Application at 31. Based on incidence data from Vermont's cancer registry combined with the replacement linear accelerator's increased capabilities, SVMC projects a 2% growth in annual treatment volumes. Utilization is expected to increase by 30 procedures in 2016, 72 in 2017, and 73 in 2018. Application at 29, 31; Table 8.

Standard of Review

Vermont's certificate of need process is governed by 18 V.S.A. §§ 9431-9446 and Green Mountain Care Board Rule 4.000: *Certificate of Need*. The applicant bears the burden to demonstrate that each of the criteria set forth in 18 V.S.A. § 9437(1)-(8) is met. Rule 4.000, §4.302(3).

Conclusions of Law

Section 9437 of Title 18 contains criteria that must be satisfied before the Board may grant an applicant a certificate of need. Here, the applicant has demonstrated that it meets each of the relevant criteria, which we address in turn.

Pursuant to the first criterion, we conclude that the application is consistent with the health resource allocation plan (HRAP). The HRAP, last published in 2009, identifies needs in Vermont's health care system, resources to address those needs, and priorities for addressing them on a statewide basis. *See* 18 V.S.A. § 9437(1).

Pursuant to the second criterion, 18 V.S.A. § 9437(2), SVMC has shown that the cost of the project is reasonable, that SVMC can sustain any financial burden likely to result from the project, that the cost of care will not unduly increase, and that less expensive alternatives are not feasible or appropriate. The project involves the replacement of existing equipment that is outmoded and fully depreciated. Findings of Fact (Findings) ¶¶ 1, 2, 5, 9. Through its affiliation with Dartmouth-Hitchcock, SVMC will obtain a discount on the purchase of the Varian. Finding ¶ 2. In addition to its performance and documented up-times, the Varian accelerator fits within the current vault and will not require the purchase of additional shielding. *Id.* SVMC is financing the project with an equity contribution and there is no debt financing. Finding ¶ 10.

Pursuant to the third criterion, SVMC has demonstrated a need for this project and that the service is appropriate for it to provide. 18 V.S.A. § 9437(3). SVMC has provided radiation oncology services since 1996. Finding ¶ 1. The project simply replaces the outmoded existing linear accelerator with a model with greater functionality to serve cancer patients in SVMC's

service area who might otherwise have had to travel farther from their homes to receive treatments. Findings ¶¶ 1, 3, 5, 6.

SVMC has satisfied the fourth criterion by demonstrating that both the quality of and access to health care will increase as a result of the project. 18 V.S.A. § 9437(4). The replacement accelerator has advanced capabilities to deliver precise tumor targeting, reducing damage to surrounding healthy tissue. Treatment times are shorter, reducing the time patients must remain motionless or in uncomfortable positions. Findings ¶¶ 5, 6. Further, the replacement accelerator allows patients to access additional services in Bennington instead of traveling a greater distance from their homes, which places an additional burden on patients and their families. Findings ¶¶ 4, 6.

We further conclude that SVMC has shown that the project will not adversely affect other services offered by the applicant and that the project serves the public good. 18 V.S.A. § 9737(5)(6). SVMC has been offering essential radiation therapy services since 1996. Finding ¶ 1. SVMC’s affiliation with Dartmouth-Hitchcock, which reviews the treatment regimen for every new patient relative to established guidelines, assures that patients receive appropriate treatment. Finding ¶ 7.

The applicant has satisfied the seventh statutory criterion. 18 V.S.A. § 9437(7) (requires the applicant to consider accessible transportation services). SVMC is not changing the location of its linear accelerator or oncology services. Patients in SVMC’s service area may access services not currently available locally, rather than traveling further from home to receive their treatments. Findings ¶¶ 4, 6.

Finally, we conclude that the applicant has satisfied the eighth criteria, which is not directly relevant to the proposed project. 18 V.S.A. § 9437(8) (requires conformance with health information technology plan if application is for purchase of new health information technology).

We therefore conclude that the applicant has demonstrated that each applicable statutory criterion has been met, and issue a certificate of need on this date.

Order

Pursuant to 18 V.S.A. § 9440(d), the Green Mountain Care Board approves the application of Southwestern Vermont Medical Center and a Certificate of Need shall issue.

SO ORDERED.

Dated: October 29, 2015 at Montpelier, Vermont

s/ Alfred Gobeille)
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s/ Cornelius Hogan)
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GREEN MOUNTAIN
CARE BOARD

s/ Jessica Holmes)
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s/ Betty Rambur)
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s/ Allan Ramsay)

OF VERMONT

Filed: October 29, 2015

Attest: s/ Janet Richard
Green Mountain Care Board
Administrative Services Coordinator