



TO: House Committee on Health Care

FROM: Jill Mazza Olson, Executive

DATE: Director February 12, 2018

RE: H.669 – Certificate of Need

Attached please find a proposal for an amendment to H.669, the Certificate of Need bill. In reviewing the bill, we identified an inconsistency in current law between the certificate of need (CON) requirements related to home health services for non-hospitals (18 VSA 9434(a)) versus the requirements for hospitals (18 VSA 9434(b)). Non-hospitals are explicitly required to obtain a CON for home health services. Hospitals are not.

We respectfully ask the committee to consider our proposed amendment which will make the sections on non-hospitals and hospitals consistent by adding an explicit provision about home health to the hospital requirements.

We have consulted with the stakeholders we could identify with an interest in this amendment including the Health Care Advocate, the Green Mountain Care Board, the Vermont Association of Hospitals and Health Systems and Bayada Home Health. While we have not yet heard back the Health Care Advocate, the other parties have all indicated that they are neutral or not opposed to the proposal.

Please do not hesitate to contact me if you have any questions or concerns.



Proposed Amendment to 18 VSA § 9434
Contact: Jill Mazza Olson
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For Reference: 18 VSA § 9434

§ 9434. Certificate of need; general rules

- (a) A health care facility other than a hospital shall not develop or have developed on its behalf a new health care project without issuance of a certificate of need by the Board. For purposes of this subsection, a "new health care project" includes the following:
(1) The construction, development, purchase, renovation, or other establishment of a health care facility, or any capital expenditure by or on behalf of a health care facility, for which the capital cost exceeds 1,500,000.00.
(2) A change from one licensing period to the next in the number of licensed beds of a health care facility through addition or conversion, or through relocation from one physical facility or site to another.
(3) The offering of any home health service, or the transfer or conveyance of more than a 50 percent ownership interest in a health care facility other than a hospital.
(4) 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 . . .

Proposed amendment to H.669:

6 § 9434. CERTIFICATE OF NEED; GENERAL RULES

7 * * *

8 (b) A hospital shall not develop or have developed on its behalf a new
9 health care project without issuance of a certificate of need by the Board. For
10 purposes of this subsection, a "new health care project" includes the following:

11 (1) The construction, development, purchase, renovation, or other
12 establishment of a health care facility, or any capital expenditure by or on
13 behalf of a hospital, for which the capital cost exceeds \$3,000,000.00.

14 (2) The purchase, lease, or other comparable arrangement of a single

15 piece of diagnostic and therapeutic equipment for which the cost, or in the case
16 of a donation the value, is in excess of ~~\$1,000,000.00~~ \$1,500,000.00. For
17 purposes of this subdivision, the purchase or lease of one or more articles of
18 diagnostic or therapeutic equipment that are necessarily interdependent in the
19 performance of their ordinary functions or that would constitute any health
20 care facility included under subdivision 9432(8)(B) of this title, as determined
21 by the Board, shall be considered together in calculating the amount of an
1 expenditure. The Board's determination of functional interdependence of
2 items of equipment under this subdivision shall have the effect of a final
3 decision and is subject to appeal under section 9381 of this title.

4 (3) The offering of a health care service or technology having an annual
5 operating expense that exceeds ~~\$500,000.00~~ \$1,000,000.00 for either of the
6 next two budgeted fiscal years, if the service or technology was not offered or
7 employed, either on a fixed or a mobile basis, by the hospital within the
8 previous three fiscal years.

(4) The offering of any home health service.