

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred House Bill No. 96
3 entitled “An act relating to increasing the monetary thresholds for certificates
4 of need” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

7 Sec. 1. 18 V.S.A. § 9434 is amended to read:

8 § 9434. CERTIFICATE OF NEED; GENERAL RULES

9 (a) A health care facility other than a hospital shall not develop or have
10 developed on its behalf a new health care project without issuance of a
11 certificate of need by the Board. For purposes of this subsection, a “new
12 health care project” ~~includes~~ means any of the following:

13 (1) The construction, development, purchase, renovation, or other
14 establishment of a health care facility, or any capital expenditure by or on
15 behalf of a health care facility, for which the capital cost exceeds
16 ~~\$1,500,000.00~~ \$10,000,000.00.

17 (2) A change from one licensing period to the next in the number of
18 licensed beds of a health care facility through addition or conversion, or
19 through relocation from one physical facility or site to another.

1 (3) The offering of any home health service, or the transfer or
2 conveyance of more than a 50 percent ownership interest in a health care
3 facility other than a hospital or nursing home.

4 (4) The purchase, lease, or other comparable arrangement of a single
5 piece of diagnostic and therapeutic equipment for which the cost, or in the case
6 of a donation the value, is in excess of ~~\$1,000,000.00~~ \$5,000,000.00. For
7 purposes of this subdivision, the purchase or lease of one or more articles of
8 diagnostic or therapeutic equipment that are necessarily interdependent in the
9 performance of their ordinary functions or that would constitute any health
10 care facility included under subdivision 9432(8)(B) of this title, as determined
11 by the Board, shall be considered together in calculating the amount of an
12 expenditure. The Board's determination of functional interdependence of
13 items of equipment under this subdivision shall have the effect of a final
14 decision and is subject to appeal under section 9381 of this title.

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

1 (6) The construction, development, purchase, lease, or other
2 establishment or expansion of an ambulatory surgical center for which the cost
3 exceeds \$10,000,000.00.

4 (b) A hospital shall not develop or have developed on its behalf a new
5 health care project without issuance of a certificate of need by the Board. For
6 purposes of this subsection, a “new health care project” ~~includes~~ means any of
7 the following:

8 (1) The construction, development, purchase, renovation, or other
9 establishment of a health care facility, or any capital expenditure by or on
10 behalf of a hospital, for which the capital cost exceeds ~~\$3,000,000.00~~
11 \$10,000,000.00.

12 (2) The purchase, lease, or other comparable arrangement of a single
13 piece of diagnostic and therapeutic equipment for which the cost, or in the case
14 of a donation the value, is in excess of ~~\$1,500,000.00~~ \$5,000,000.00. For
15 purposes of this subdivision, the purchase or lease of one or more articles of
16 diagnostic or therapeutic equipment that are necessarily interdependent in the
17 performance of their ordinary functions or that would constitute any health
18 care facility included under subdivision 9432(8)(B) of this title, as determined
19 by the Board, shall be considered together in calculating the amount of an
20 expenditure. The Board’s determination of functional interdependence of

1 items of equipment under this subdivision shall have the effect of a final
2 decision and is subject to appeal under section 9381 of this title.

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

8 (4) A change from one licensing period to the next in the number of
9 licensed beds of a health care facility through addition or conversion, or
10 through relocation from one physical facility or site to another.

11 (5) The offering of any home health service.

12 (c) In the case of a project that requires a certificate of need under this
13 section, expenditures for which are anticipated to be in excess of
14 ~~\$30,000,000.00~~ \$50,000,000.00, the applicant first shall secure a conceptual
15 development phase certificate of need, in accordance with the standards and
16 procedures established in this subchapter, that permits the applicant to make
17 expenditures for architectural services, engineering design services, or any
18 other planning services, as defined by the Board, needed in connection with the
19 project. Upon completion of the conceptual development phase of the project,
20 and before offering or further developing the project, the applicant shall secure
21 a final certificate of need in accordance with the standards and procedures

1 established in this subchapter. Applicants shall not be subject to sanctions for
2 failure to comply with the provisions of this subsection if such failure is solely
3 the result of good faith reliance on verified project cost estimates issued by
4 qualified persons, which cost estimates would have led a reasonable person to
5 conclude the project was not anticipated to be in excess of ~~\$30,000,000.00~~
6 \$50,000,000.00 and therefore not subject to this subsection. The provisions of
7 this subsection notwithstanding, expenditures may be made in preparation for
8 obtaining a conceptual development phase certificate of need, which
9 expenditures shall not exceed ~~\$1,500,000.00 for non-hospitals or~~
10 ~~\$3,000,000.00 for hospitals~~ \$10,000,000.00.

11 (d) If the Board determines that a person required to obtain a certificate of
12 need under this subchapter has separated a single project into components in
13 order to avoid cost thresholds or other requirements under this subchapter, the
14 person shall be required to submit an application for a certificate of need for
15 the entire project, and the Board may proceed under section 9445 of this title.
16 The Board's determination under this subsection shall have the effect of a final
17 decision and is subject to appeal under section 9381 of this title.

18 (e) The Board may periodically adjust the monetary jurisdictional
19 thresholds contained in this section. In doing so, the Board shall reflect the
20 same categories of health care facilities, services, and programs recognized in

1 this section. Any adjustment by the Board shall not exceed an amount
2 calculated using the cumulative Consumer Price Index rate of inflation.

3 Sec. 2. 18 V.S.A. § 9435 is amended to read:

4 § 9435. EXCLUSIONS

5 * * *

6 (f)(1) Excluded from this subchapter are routine replacements of:

7 (A) medical equipment that is fully depreciated; and

8 (B) nonmedical equipment and fixtures, including furnaces, boilers,
9 refrigeration units, kitchen equipment, heating and cooling units, and similar
10 items, regardless of their remaining useful life.

11 (2) These The replacements described in subdivision (1) of this
12 subsection and purchased by a hospital shall be included in the hospital's
13 budget and may be reviewed in the budget process set forth in subchapter 7 of
14 this chapter.

15 * * *

16 (i) Excluded from this subchapter are the offering of a health care service,
17 or the construction, development, purchase, renovation, or other establishment
18 of a health care facility, that is owned or operated by the State of Vermont or is
19 funded in whole or in substantial part by a contract or grant awarded by the
20 State of Vermont.

1 (i) Excluded from this subchapter are emergency and nonemergency
2 ground ambulance services, affiliated agencies, and equipment and supplies
3 used by emergency medical personnel, as those terms are defined in 24 V.S.A.
4 § 2651.

5 Sec. 3. 18 V.S.A. § 9440b is amended to read:

6 § 9440b. **STATE GRANTS AND CONTRACTS;** INFORMATION
7 TECHNOLOGY; REVIEW PROCEDURES

8 (a) Notwithstanding the procedures in section 9440 of this title, the Board
9 shall establish by rule standards and expedited procedures for reviewing
10 applications for the following projects that would otherwise be subject to
11 review under this subchapter:

12 (1) the construction, development, purchase, renovation, or other
13 establishment of a health care facility that is owned or operated by the
14 State of Vermont or is funded in whole or in substantial part by a contract
15 or grant awarded by the State of Vermont;

16 (2) the offering of a health care service that is funded in whole or in
17 substantial part by a contract or grant awarded by the State of Vermont;

18 and

19 (3) the purchase or lease of health care information technology that
20 otherwise would be subject to review under this subchapter. Such applications
21 shall not be granted or approved unless they are, provided that the Board

1 **shall not grant or approve an application unless the purchase or lease of**
2 **the health care information technology is** consistent with the Health
3 Information Technology Plan developed under section 9351 of this title **and.**

4 **(b) An application reviewed pursuant to this section shall not be**
5 **granted or approved unless it is consistent with** the Health Resource
6 Allocation Plan **and the statewide system of care.**

7 Sec. 4. EFFECTIVE DATE

8 This act shall take effect on July 1, 2025 and shall apply to all new health
9 care projects initiated on or after that date. For applications for a certificate of
10 need that are already in process on July 1, 2025, the jurisdictional thresholds
11 and exclusions in place at the time the application was filed shall continue to
12 apply until a final decision is made on the application.

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15
16
17 (Committee vote: _____)

18 _____

19 Representative _____

20 FOR THE COMMITTEE