

1 TO THE HONORABLE SENATE:

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

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

9 § 9434. CERTIFICATE OF NEED; GENERAL RULES

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

14 (1) The construction, development, purchase, renovation, or other
15 establishment of a health care facility, or any capital expenditure by or on
16 behalf of a health care facility, for which the capital cost exceeds
17 ~~\$1,500,000.00~~ \$10,000,000.00.

18 (2) A change from one licensing period to the next in the number of
19 licensed beds of a health care facility through addition or conversion, or
20 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. **[Repealed.]**~~

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 the following:~~

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

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

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

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

9 ~~(5) The offering of any home health service.~~ **Repealed.**

10 (c) In the case of a project that requires a certificate of need under this
11 section, expenditures for which are anticipated to be in excess of
12 ~~\$30,000,000.00~~ \$50,000,000.00, the applicant first shall secure a conceptual
13 development phase certificate of need, in accordance with the standards and
14 procedures established in this subchapter, that permits the applicant to make
15 expenditures for architectural services, engineering design services, or any
16 other planning services, as defined by the Board, needed in connection with the
17 project. Upon completion of the conceptual development phase of the project,
18 and before offering or further developing the project, the applicant shall secure
19 a final certificate of need in accordance with the standards and procedures
20 established in this subchapter. Applicants shall not be subject to sanctions for
21 failure to comply with the provisions of this subsection if such failure is solely

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

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

16 (e) The Board may periodically adjust the monetary jurisdictional
17 thresholds contained in this section. In doing so, the Board shall reflect the
18 same categories of health care facilities, services, and programs recognized in
19 this section. Any adjustment by the Board shall not exceed an amount
20 calculated using the cumulative Consumer Price Index rate of inflation.

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

2 § 9435. EXCLUSIONS

3 * * *

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

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

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

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

13 * * *

14 (i) Excluded from this subchapter are emergency and nonemergency
15 ground ambulance services, affiliated agencies, and equipment and supplies
16 used by emergency medical personnel, as those terms are defined in 24 V.S.A.
17 § 2651.

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

1 **or grant awarded by the State of Vermont; provided, however, that the**
2 **State agency sponsoring the project or awarding the contract or grant**
3 **shall inform the Green Mountain Care Board prior to commencing the**
4 **project or within 30 days following the execution of the contract or grant.**

5 Sec. 3. EFFECTIVE DATE

6 This act shall take effect on July 1, 2025 passage and shall apply to all new
7 health care projects initiated on or after that date. For applications for a
8 certificate of need that are already in process on July 1, 2025 the date of
9 passage of this act for which one or more persons have been granted
10 interested party status, the jurisdictional thresholds and exclusions in place at
11 the time the application was filed shall continue to apply until a final decision
12 is made on the application. For applications for a certificate of need that are
13 already in process on July 1, 2025 the date of passage of this act for which no
14 person has been granted interested party status, the applicant may withdraw the
15 application in accordance with Board rules.

16
17
18 (Committee vote: _____)

19 _____
20 Senator _____

21 FOR THE COMMITTEE