

1 S.10

2 Introduced by Senators Hardy and Lyons

3 Referred to Committee on

4 Date:

5 Subject: Health; health care facilities; Green Mountain Care Board; certificate  
6 of need

7 Statement of purpose of bill as introduced: This bill proposes to modify the  
8 requirements for obtaining a certificate of need before offering or developing a  
9 new health care project, including increasing monetary thresholds and  
10 eliminating the requirement for certain projects to obtain a certificate of need.

11 An act relating to modifying requirements for obtaining a certificate of need

12 It is hereby enacted by the General Assembly of the State of Vermont:

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

14 § 9434. CERTIFICATE OF NEED; GENERAL RULES

15 (a) A health care facility other than a hospital shall not develop or have  
16 developed on its behalf a new health care project without issuance of a  
17 certificate of need by the Board. For purposes of this subsection, a “new  
18 health care project” includes the following:

19 (1) The construction, development, purchase, renovation, or other  
20 establishment of a health care facility, or any capital expenditure by or on

1 behalf of a health care facility, for which the capital cost exceeds  
2 ~~\$1,500,000.00~~ \$5,000,000.00.

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

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

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

20 (5) The offering of a health care service or technology having an annual  
21 operating expense that exceeds ~~\$500,000.00~~ \$1,500,000.00 for either of the

1 next two budgeted fiscal years, if the service or technology was not offered or  
2 employed, either on a fixed or a mobile basis, by the health care facility within  
3 the previous three fiscal years.

4 (6) The construction, development, purchase, lease, or other  
5 establishment of an ambulatory surgical center.

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

9 (1) The construction, development, purchase, renovation, or other  
10 establishment of a health care facility, or any capital expenditure by or on  
11 behalf of a hospital, for which the capital cost exceeds ~~\$3,000,000.00~~  
12 \$10,000,000.00.

13 (2) The purchase, lease, or other comparable arrangement of a single  
14 piece of diagnostic and therapeutic equipment for which the cost, or in the case  
15 of a donation the value, is in excess of ~~\$1,500,000.00~~ \$5,000,000.00. For  
16 purposes of this subdivision, the purchase or lease of one or more articles of  
17 diagnostic or therapeutic equipment that are necessarily interdependent in the  
18 performance of their ordinary functions or that would constitute any health  
19 care facility included under subdivision 9432(8)(B) of this title, as determined  
20 by the Board, shall be considered together in calculating the amount of an  
21 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~~ \$100,000,000.00, 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 \$100,000,000.00 and therefore not subject to this subsection. The provisions  
7 of this subsection notwithstanding, expenditures may be made in preparation  
8 for obtaining a conceptual development phase certificate of need, which  
9 expenditures shall not exceed ~~\$1,500,000.00~~ \$5,000,000.00 for non-hospitals  
10 or ~~\$3,000,000.00~~ \$10,000,000.00 for hospitals.

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~~ shall 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~~  
21 ~~this section. Any adjustment by the Board shall not exceed an amount~~

1 ~~calculated~~ annually using the cumulative Consumer Price Index rate of  
2 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 emergency and nonemergency  
17 ground ambulance services, affiliated agencies, and equipment and supplies  
18 used by emergency medical personnel, as those terms are defined in 24 V.S.A.  
19 § 2651.

20 Sec. 3. EFFECTIVE DATE

21 This act shall take effect on July 1, 2025.