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S.20

Introduced by Senators Gulick, Beck, Chittenden, Clarkson, Hart, Major,
Mattos, Vyhovsky, Watson, Weeks and White

Referred to Committee on

Date:

Subject: Health; health care facilities; Green Mountain Care Board; certificates
of need

Statement of purpose of bill as introduced: This bill proposes to increase the
monetary thresholds that trigger a certificate of need requirement and to
exempt health care services and health care facility projects that are the result
of a contract awarded by the State of Vermont.

An act relating to increasing the monetary thresholds for certificates of need

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

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

§ 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 (1) The construction, development, purchase, renovation, or other
2 establishment of a health care facility, or any capital expenditure by or on
3 behalf of a health care facility, for which the capital cost exceeds
4 ~~\$1,500,000.00~~ \$10,000,000.00.

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

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

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

1 (5) The offering of a health care service or technology having an annual
2 operating expense that exceeds ~~\$500,000.00~~ \$10,000,000.00 for either of the
3 next two budgeted fiscal years, if the service or technology was not offered or
4 employed, either on a fixed or a mobile basis, by the health care facility within
5 the previous three fiscal years.

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

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

12 (1) The construction, development, purchase, renovation, or other
13 establishment of a health care facility, or any capital expenditure by or on
14 behalf of a hospital, for which the capital cost exceeds ~~\$3,000,000.00~~
15 \$10,000,000.00.

16 (2) The purchase, lease, or other comparable arrangement of a single
17 piece of diagnostic and therapeutic equipment for which the cost, or in the case
18 of a donation the value, is in excess of ~~\$1,500,000.00~~ \$10,000,000.00. For
19 purposes of this subdivision, the purchase or lease of one or more articles of
20 diagnostic or therapeutic equipment that are necessarily interdependent in the
21 performance of their ordinary functions or that would constitute any health

1 care facility included under subdivision 9432(8)(B) of this title, as determined
2 by the Board, shall be considered together in calculating the amount of an
3 expenditure. The Board's determination of functional interdependence of
4 items of equipment under this subdivision shall have the effect of a final
5 decision and is subject to appeal under section 9381 of this title.

6 (3) The offering of a health care service or technology having an annual
7 operating expense that exceeds ~~\$1,000,000.00~~ \$10,000,000.00 for either of the
8 next two budgeted fiscal years, if the service or technology was not offered or
9 employed, either on a fixed or a mobile basis, by the hospital within the
10 previous three fiscal years.

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

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

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

1 project. Upon completion of the conceptual development phase of the project,
2 and before offering or further developing the project, the applicant shall secure
3 a final certificate of need in accordance with the standards and procedures
4 established in this subchapter. Applicants shall not be subject to sanctions for
5 failure to comply with the provisions of this subsection if such failure is solely
6 the result of good faith reliance on verified project cost estimates issued by
7 qualified persons, which cost estimates would have led a reasonable person to
8 conclude the project was not anticipated to be in excess of ~~\$30,000,000.00~~
9 \$50,000,000.00 and therefore not subject to this subsection. The provisions of
10 this subsection notwithstanding, expenditures may be made in preparation for
11 obtaining a conceptual development phase certificate of need, which
12 expenditures shall not exceed ~~\$1,500,000.00 for non-hospitals or~~
13 ~~\$3,000,000.00 for hospitals~~ \$10,000,000.00.

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

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

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

7 § 9435. EXCLUSIONS

8 * * *

9 (i) Excluded from this subchapter are the offering of a health care service,
10 or the construction, development, purchase, renovation, or other establishment
11 of a health care facility, as the result of a contract awarded by the State of
12 Vermont.

13 Sec. 3. EFFECTIVE DATE

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