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December 2, 2015

VIA EMAIL AND OVERNIGHT DELIVERY

Maryland Health Care Commission
4160 Patterson Ave.
Baltimore, MD 21215

**Re: Adventist Healthcare, Inc. D/B/A
Washington Adventist Hospital
Matter No. 132-15-2349, Response to Recommended Decision**

Dear Commissioners:

On behalf of the City of Takoma Park, enclosed for filing please find our Response to the Commissioner's Recommended Decision and thirty copies thereof. Thank you for your attention to this matter.

Very truly yours,

Kenneth Sigman

Encl: Original Comments plus 30 copies

CC (via email and mail):

Thomas Dame
Marta D. Harting
Joel Riklin
Kevin McDonald
Ruby Potter
Suellen Wideman
Patricia G. S. Cameron
Richard McAlee
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Nancy M. Lane
Paul Parker
Jack Morkan III
Catherine Tunis

BEFORE THE MARYLAND HEALTH CARE COMMISSION

IN THE MATTER OF
ADVENTIST HEALTHCARE, INC. D/B/A
WASHINGTON ADVENTIST HOSPITAL

Matter No. 13-15-2349

**City of Takoma Park Comments on the Reviewing Commissioner's
Recommended Decision**

The City of Takoma Park gratefully accepts the invitation from Reviewing Commissioner Frances B. Phillips, RN, MHA, to comment to the Commission on her Recommended Decision. The City appreciates her recognition of the profound impact that the loss of a hospital will have on its residents and the unique opportunity that her invitation presents to the City. The opportunity for the City to provide its input to the full Commission is particularly important in this case because, to date, Montgomery County has not participated in this proceeding. The City's interest in this proceeding is to ensure geographic and economic access to healthcare for its residents. The Reviewing Commissioner recognized that the relocation of Washington Adventist Hospital ("WAH") from Takoma Park to White Oak will have an adverse impact upon Takoma Park's residents, as evidenced by her finding that WAH will be only the sixth most proximate hospital to Takoma Park and her recommended condition that the CON Applicant, Adventist HealthCare, Inc. ("AHC") operate a 24-7 urgent care center upon the closing of WAH in Takoma Park. The Reviewing Commissioner also recognized the weak financial projections for WAH and the Takoma Park campus, finding that operating losses at the Takoma Park campus will consume the majority of the excess operating revenue from WAH in White Oak.

The City is commenting on the Recommended Decision to suggest that the Commission take the opportunity presented by the relocation of WAH—a major shift in the region's healthcare delivery system—and the rapid evolution of federal and state healthcare regulations, to include the establishment of a Freestanding Medical Facility in Takoma Park if doing so would be consistent with the State Health Plan and would strengthen the finances of the hospital and its parent corporation, Adventist HealthCare, Inc.

Summary of Project and Recommended Decision

At issue in this proceeding is the relocation of WAH from its campus in Takoma Park, Maryland, its home for 108 years, to a new campus in White Oak, Maryland. WAH would leave one component of its regulated facilities, a 40-bed behavioral health unit, on the Takoma Park campus and relicense those psychiatric facilities as a special hospital-psychiatric operated by Adventist Behavioral Health.

The Recommended Decision includes as a condition to the CON that AHC also operate a 24/7 urgent care clinic on the Takoma Park campus commencing immediately upon the relocation of the hospital, to mitigate the loss of health care services by residents of Takoma Park and surrounding communities. Specifically, the recommended condition reads as follows:

Adventist HealthCare, Inc. must open an urgent care center on its Takoma Park campus coinciding with its closure of general hospital operations on that campus. The urgent care center must be open every day of the year, and be open 24 hours a day. Adventist HealthCare, Inc. may not eliminate this urgent care center or reduce its hours of operation without the approval of the Maryland Health Care Commission.

AHC also made representations to the Commission that other healthcare services and facilities would remain on the Takoma Park campus, including (1) leased space in the existing Crossroads Professional Building, to Community Clinic, Inc., a Federally Qualified Health Center that provides primary care, maternal and child health care and pharmacy services to low income persons, (2) continued operation of a 24-bed Inpatient Rehabilitation Facility in its current location, as part of Adventist Rehabilitation Hospital, and (3) continued leasing of professional office space to physicians, an AHC maternity clinic, and imaging and other ancillary services to support the clinical care provided on the campus.

Discussion

Loss of Services and Challenges to Sustained Viability at Takoma Park

Washington Adventist Hospital was established in the City of Takoma Park in 1907 and has been an important part of the Takoma Park community for 108 years. The proposed relocation will represent a major loss of medical, surgical, obstetric, emergency, oncology and other health care services to City residents, and loss of important collateral health care and preventive health activities that are associated with the presence of a general hospital in a community. As noted in the Reviewer's Recommended Decision, following the relocation, WAH will move from the nearest to the sixth-nearest hospital to Takoma Park.

While the City deeply appreciates Condition 1 of the Recommended Decision requiring the 24/7 urgent care unit, the recommended condition does not sufficiently address the adverse impacts to Takoma Park that the Reviewing Commissioner found in her Recommended Decision.

The Recommended Decision notes that other hospitals, including Holy Cross, are close to the City. The presence of beds and services in nearby hospitals does not equate to the investment in transitional care, geriatric home care, cardiac care, physician offices and cancer care that WAH currently provides at Takoma Park.

The Recommended Decision includes a finding that the relocated WAH acute care hospital will have a different service area. Maryland can learn from history and make the proposed transition work for both the proposed new suburban population and the existing urban service area. The City understands that this project is occurring during a watershed of changes in the national and state healthcare delivery systems and asks that any approval of this CON be associated with thoughtful investment of policy and financial resources to make the transition

work for both service areas. Absent those investments, the proposed level of residual investment by Adventist Healthcare, Inc. (“AHC”), even as modified by the Recommended Conditions, will not adequately compensate for loss of the general acute care hospital in Takoma Park.

In discussions of financial feasibility, the Recommended Decision notes that the White Oak component of the proposed project will have “thin” operating margins. The Recommended Decision also projects that the Takoma Park campus, which includes the psychiatric component of WAH, will lose approximately \$5 million per year for the five years following the relocation of the general hospital. This loss represents 70%-90% of the excess revenue generated in White Oak. The Reviewing Commissioner, rather than imposing a condition or modification to the proposal to address the operating loss in Takoma Park and dangerously thin margin of the White Oak campus, simply concludes that the overall project is financially feasible because AHC has the resources to implement the money-losing Takoma Park component of the project. Presumably, however, AHC will not be inclined to maintain money-losing services and facilities in Takoma Park. Because of this recognized and unaddressed vulnerability, the City requests more active participation on the part of the Maryland Department of Health and Mental Hygiene and the Commission to assist in building a viable health care delivery system for Takoma Park and its surrounding areas in Montgomery and Prince George’s County.

Emergency Services

The City thanks Commissioner Phillips for recognizing in Condition 1 the importance of retaining, at minimum, urgent care services without the lapse in care that was written in the CON application. AHC asserts that the urgent care services will accommodate the needs of 25 to 45 percent of persons who use the WAH-Takoma Park Emergency Room. Making sure that this continues without interruption is critical to retaining a healthy balance of local users.

The City is, however, concerned that the other 55 to 75 percent of the 48,000 people per year who have depended on WAH-Takoma Park will be required to look elsewhere for emergency care when WAH moves to its new service area. As the City Council of Takoma Park suggested in Resolution 2015-5, a better alternative may be available. The Maryland Code provides for the establishment of Freestanding Medical Facilities (“FMFs”). FMFs are rate regulated and subject to CON review. They provide 24/7 emergency medical services. The City respectfully requests that the Commission minimize the administrative barriers to the establishment of an FMF in Takoma Park by permitting AHC to open an FMF in Takoma Park as a modification to the relocation CON instead of requiring a new CON Application.

Section 10.24.10(B)(4) of the State Health Plan provides that a proposed project shall not have an unwarranted adverse impact upon availability of services or access to services. Without allowing for consideration of whether an FMF is appropriate in Takoma Park, the Commission cannot make a determination as to whether the removal of emergency medical services from Takoma Park is warranted.

Section 10.24.10(B)(4) of the State Health Plan provides that a proposed project “should represent the most cost effective approach to meeting the needs that the project seeks to address.” Although AHC filed its CON Application during a moratorium on new FMFs in Maryland, that

moratorium has expired, and the Commission is in the process of promulgating regulations. Therefore, a determination as to the cost effectiveness of the project requires consideration of the appropriateness of an FMF in Takoma Park before WAH constructs new emergency department facilities in White Oak and converts its existing emergency department to an urgent care center, as proposed.

Because an FMF can offer both urgent and emergency care, the City's residents would benefit from a broader range of services and residents and the Maryland health care delivery system would benefit from cost effective and appropriate care. With an emergency room on campus, the specialty hospital-psychiatric would have stronger 24/7 intake support.

The City understands that federal Medicare and Medicaid laws and Maryland law affecting Freestanding Medical Facilities both changed after AHC submitted the CON application. However, these changes present opportunities for the Commission, AHC, and the City of Takoma Park, and the City asks that those opportunities become an integral part of the Commission's Decision.

Psychiatric Services

The City shares the Commissioner's concerns that the proposed specialty hospital-psychiatric is financially vulnerable. The proposal would change the 40-bed facility from a unit of a general hospital, which has all of the required support that an acute general hospital provides, to a freestanding facility that may be strained to support itself. The expectation that Maryland's Institute for Mental Disease waiver for Medicaid reimbursements will be reinstated is still speculative and will not represent a full replacement of lost reimbursements or service to Medicaid beneficiaries. The waiver covers only emergency admissions. Without an emergency room on campus, emergency admissions will likely diminish. The purpose of the waiver was to provide an inpatient treatment place for Medicaid beneficiaries who are admitted to emergency rooms of acute general hospitals and cannot find immediate placement in psychiatric hospitals. If reinstated, the waiver may not cover voluntary Medicaid admissions, a patient group that is part of the current Takoma Park patient population.

Section 10.24.10(B)(13) of the State Health Plan requires that proposed projects must "be financially feasible and not jeopardize the long-term financial viability of the hospital." The Recommended Decision recognizes that the Takoma Park specialty hospital-psychiatric may fail and that, under a worst case scenario, "AHC would have to reassess its ability to continue to viably serve all acute psychiatric patients in need of service and this reassessment would undoubtedly focus on bringing psychiatric beds back to within the general hospital setting." As such, Condition 2 of the Recommended Decision opens the door to AHC to move the unit to White Oak in five years. Change to a specialty hospital alone jeopardizes Medicaid beneficiary access to psychiatric services because of the Institute for Medical Disease's exclusion in the federal statute.¹ Moving beds "back to within the general hospital setting" would remove another critical service from Takoma Park. Federal legislation or state funding will be required

¹ See Appendix 7 to the Recommended Decision and Laura Morgan, What's Up with IMD Status, OPEN MINDS (December 8, 2012), <https://www.openminds.com/market-intelligence/executive-briefings/120812-imd-status-update.htm/> (discussing the Institute for Medical Disease waiver program and demonstration).

to avoid this “worst case scenario.” The Recommended Decision deems a solution to the loss of the exemption “likely” without explanation, rather than addressing the concern.

Physicians

Physicians locate near hospitals to have access to the diagnostic and treatment support their patients need. Takoma Park is very concerned that the proposal for the AHC-Takoma Park campus removes critical diagnostic and treatment support capacity and will in turn prompt an exodus of physicians from the community. The City has already experienced some departures, with the project only in the planning stage. The City fears this will accelerate once physicians realize that there will be little in the way of diagnostic and treatment services available to their patients (AHC stated that its diagnostic and ancillary services will be available only to its urgent care center and psychiatric and rehabilitation hospitals).

The Future of the Takoma Park Campus

The City of Takoma Park needs the WAH-Takoma Park campus to remain an attractive location for patients to visit and health care providers to work. The Recommended Decision, while taking the important step of mandating the provision of 24/7 urgent care in Takoma Park, appears to envision a dying campus. First, recognizing the tenuous financial projections for the specialty psychiatric hospital in Takoma Park, the Recommended Decision mandates that AHC report on its financial condition in five years, at which point the Commission may permit AHC to move the psychiatric services to White Oak. Second, although the Recommended Decision requires Commission approval for AHC to close or reduce hours at the Takoma Park urgent care center, if the urgent care center is underutilized or underperforming, the Commission may permit a reduction in hours or even closure.

AHC also appears to envision a campus at risk, as it is keeping the existing hospital tower in place but mostly vacant (the top three of the five floors will be unoccupied). Inadequate funding for the Takoma Park campus site will result in deterioration and will make the campus unattractive to highly-regarded health professionals, as well as patients.

The conditions relating to the Takoma Park campus provide only a temporary mitigation of the loss of services in Takoma Park and the adverse impact upon accessibility of health care in the City. Rather than mandating that AHC temporarily subsidize the Takoma Park campus and hoping that AHC will invest the capital necessary to make the mostly abandoned campus attractive to providers and patients, the Commission should take advantage of this CON proceeding and the opportunity created by the lifting of the moratorium on new FMFs. The Commission should, to the extent possible, facilitate the establishment of an FMF in Takoma Park. By doing so, the Commission would promote use and awareness of the Takoma Park campus, increase the chances that WAH would retain a greater portion of its market share in Takoma Park and other areas of its existing primary service area, address interested parties' concerns regarding overwhelming demand at their EDs, and address the City's concerns about geographic and economic access to health care.

Consideration of an FMF on the Takoma Park Campus in connection with the WAH relocation CON proceeding will facilitate modifications to the CON regarding ED and general

acute bed capacity based on emergency patients diverted from White Oak to Takoma Park and patients referred from the Takoma Park FMF to WAH-White Oak. (AHC had projected significant market share retention in Takoma Park, but the Reviewing Commissioner found those projections unreasonable.)

Conclusion

The City shares the Reviewing Commissioner's concerns regarding loss of healthcare services in Takoma Park and the tenuous projected finances of WAH-White Oak and the Takoma Park campus. In addition, the City is concerned about the vibrancy of the campus that WAH is leaving behind, which may hinder realization of the goals AHC has described for the continued provision of healthcare services in Takoma Park. The City maintains that retaining a full service emergency department in Takoma Park and making sufficient investment in the grounds and buildings to retain high quality providers may be more cost effective than the current proposal, particularly in light of recent developments at both the state and federal levels.

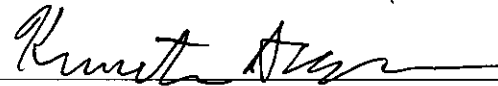
To serve the interests of AHC and the City and promote the policy objectives of the State Health Plan, the City requests that MHCC should modify the Recommended Decision as follows:

1. Adding a condition to the CON requiring that AHC conduct a prompt and thorough exploration of a Freestanding Medical Facility commencing upon the promulgation of the Commission's FMF regulations.
2. Adding a provision authorizing AHC to establish an FMF in Takoma Park, if appropriate, and make any corresponding changes to the proposed project as a modification to the CON in this proceeding.

Respectfully submitted,
The City of Takoma Park



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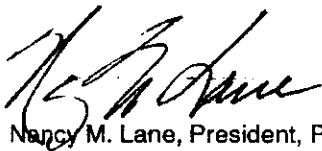
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Affirmation

I hereby disclose and affirm under the penalties of perjury that the facts stated in the foregoing comments and attachments are true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Nancy M. Lane", is written over the printed name.

Nancy M. Lane, President, PDA, Inc.

Date 12.2.15

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of December 2015, a copy of the foregoing Comments of the City of Takoma Park on the Reviewing Commissioner's Recommended Decision was sent via email and first-class mail, postage prepaid to the following:

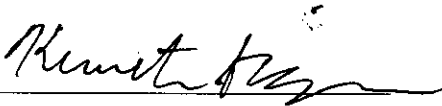
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