IN THE MATTER OF THE CONSOLIDATION OF:	*	**BEFORE THE**
ADVENTIST HEALTHCARE BEHAVIORAL HEALTH & WELLNESS-ROCKVILLE	*	**MARYLAND HEALTH**
	*	**CARE COMMISSION**
and	*	
ADVENTIST HEALTHCARE SHADY GROVE MEDICAL CENTER	*	

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STAFF REPORT AND RECOMMENDATION
REQUEST FOR EXEMPTION FROM CERTIFICATE OF NEED

I. INTRODUCTION

Adventist HealthCare, Inc. ("AHC" or "Adventist") has requested an exemption from Certificate of Need ("CON") for the consolidation of a special psychiatric hospital, Adventist HealthCare Behavioral Health and Wellness ("ABH") services and a general hospital, Adventist Healthcare Shady Grove Medical Center ("SGMC"). These two hospitals are located in close proximity in Rockville (Montgomery County). Merged asset systems may seek such an exemption in order to consolidate health care facilities. ABH is licensed to operate 117 acute psychiatric beds. SGMC is licensed to operate 266 beds and provides medical/surgical, obstetric, and pediatric inpatient services. The proposed consolidation will mean that all the facilities and services of both ABH and SGMC will operate under a single general hospital license. The acute psychiatric beds operated by ABH will operate as an acute psychiatric unit of SGMC.

The primary purpose of this consolidation is to bring ABH under the general hospital license of SGMC so that ABH will no longer be classified as an "Institution for Mental Diseases" ("IMD"). As an IMD, ABH is subject to the "IMD exclusion."[1] However, if the facilities of ABH obtain the status of psychiatric facilities operated by SGMC, they will no longer be subject to this exclusion. As will be discussed in more detail later in this report, such a change benefits Maryland's Medicaid program by capturing the federal match for Medicaid patients (estimated by Maryland's Office of Health Care Financing to be $4.5 million annually). Maryland's General Fund revenues will not be required to cover the full Medicaid payment.

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[1] The "IMD exclusion" is a federal policy that excludes participation by the federal government in funding, through Medicaid payments, psychiatric services provided to patients between the ages of 21-64 in what federal statute defines as an "Institute for Mental Disease." Freestanding psychiatric hospitals with more than 16 beds, such as ABH, are classified as an IMD. Psychiatric hospital beds operated within a general hospital, even if organized within units of more than 16 beds, are not classified as an IMD and when Medicaid patients are treated in such hospital units, funding for their care is a shared responsibility of the state and the federal government.

II. Legal Qualification for an Exemption from Certificate of Need Review

COMAR 10.24.01.04 permits exemption from CON review for several actions proposed by a merged asset system. One of those permitted actions is the "[m]erger or consolidation of two or more hospitals or other health care facilities, if the facilities or an organization that operates the facilities give the Commission 45 days written notice of their intent to merge or consolidate." COMAR 10.24.01.04A.(1) The facilities that are the subject of this request are components of a merged asset system. Adventist provided written notice on March 2, 2018. Additional information was submitted on May 4, May 8, and May 9, 2018.

III. Notice by the Commission to the Public

On March 2, 2018, staff requested publication of notices of receipt of the request for the exemption from CON in the Washington Times. The notice was also published in the *Maryland Register* on March 16, 2018 as required. No comments were received in response to these notices.

IV. Public Information Hearing

A public information hearing is required under certain circumstances when a hospital requests an exemption from CON review for the closure or partial closure of a hospital or for the conversion of a general hospital to a limited service hospital. *See* COMAR 10.24.01.04D. Because the current exemption request involves the consolidation of two facilities under one license, a public information hearing is not required.

V. Determination of Exemption from Certificate of Need Review

The applicable regulations, COMAR 10.24.01.04E, direct the Commission to issue a determination of exemption from CON review if the merged asset system has provided the required information and the Commission finds that the proposed action:

A. Is in the public interest;
B. Is not inconsistent with the State Health Plan; and
C. Will result in more efficient and effective delivery of health services.

A. Is in the Public Interest

AHC states that it is "undertaking this initiative to strengthen and ensure the continued viability of its behavioral health services." AHC describes ABH as "a vital part of the region's health care infrastructure...the largest provider of behavioral health in Montgomery County and one of the largest providers of behavioral health services in the State of Maryland." May 4, 2018 Request for Determination of Exemption Letter to the MHCC (hereinafter "Exemption Request Letter"), page 1.

AHC states that ABH has been operating at a loss in recent years (see Table 1 below). AHC believes the financial stability of ABH is made more tenuous by its IMD status, since a former CMS waiver enabling Maryland's Medicaid program to receive federal Medicaid funds for IMD services in facilities with more than 16 beds is no longer in effect. To date, Maryland's Medicaid program has been covering that portion, but there are no guarantees that this policy will remain in effect, which threatens the stability and predictability of funding for these services. AHC states that "combining the ABH license into SGMC's license will mitigate any risk associated with the State of Maryland not having sufficient budgetary funds in the future to fund the loss of the IMD waiver." Exemption Request Letter, page 4.

Table 1: Comparative Financial Performance and Projections for AHC Inpatient Psychiatric Beds as a Special Hospital and as a Unit of SGMC (in current dollars)

Status Quo – ABH Continues to Operate as a Special Psychiatric Hospital

	2015	2016	2017	2018 budget	2019	2020	2021
Net Operating Revenue	$46,553,008	$52,433,270	$ 46,565,420	$46,952,030	$47,469,547	$47,995,958	$48,538,036
Expenses	$49,096,213	$56,980,753	$ 49,561,380	$48,916,093	$49,317,444	$49,725,450	$50,145,867
Net income (Loss	($2,543,205)	($4,547,483)	($2,995,960)	($1,964,063)	($1,847,896)	($1,729,492)	($1,607,830)

As Proposed – The Facilities of ABH Become a Psychiatric Unit of SGMC

	2015	2016	2017	2018 budget	2019	2020	2021
Net Operating Revenue	$46,553,008	$52,433,270	$ 46,565,420	$49,309,647	$50,536,782	$50,573,404	$50,610,860
Expenses	$49,096,213	$56,980,753	$ 49,561,380	$48,882,824	$49,249,282	$49,620,644	$50,002,785
Net income (Loss	($2,543,205)	($4,547,483)	($2,995,960)	$426,822	$1,287,500	$952,760	$608,075

Source: AHC's May 4, 2018 Exemption Request Letter, Exhibit 2, Table J ("REVENUES & EXPENSES, UNINFLATED - NEW FACILITY OR SERVICE"), specifically Tables entitled, "BHWS under IMD license-UNINFLATED" and "BHWS under SGMC license and GBR-UNINFLATED.

AHC states that it began evaluating with the HSCRC and other State agencies the option of consolidating the licensure of ABH under SGMC, a change in licensure that would also place the service under a Global Budget Revenue ("GBR") allotment. Also, if the psychiatric beds are part of an acute general hospital, the rates for all payers, including Medicare, will be set by the HSCRC and the hospital will be reimbursed under those rates rather than the federal CMS Inpatient Psychiatric Facilities Prospective Payment System (IPF-PPS) rates, which now apply to freestanding special psychiatric hospitals. AHC states that placement of the service under the GBR will make the hospital's revenue "stable and predictable allowing the facility to focus on reducing unnecessary utilization which will free up capacity to serve additional demand in both inpatient and outpatient services." As Table 1 illustrates, this change is expected to increase AHC's net operating revenue from the ABH facilities operation by $10,075,122 (in current year dollars) during the first four years in which these facilities would operate as part of SGMC, an improvement of 5.3% over this time period, when compared to ABH's projected net operating revenue if ABH

continues to operate as a special hospital. AHC projects a very modest reduction in expenses associated with the consolidation, just under $350,000 (again, in current year dollars) over the four years of 2018 to 2021, an overall reduction in expenses of just 0.2%. Net income of the period will be much improved of the four years, from a cumulative loss of $7.15 million (current year dollars) to a positive cumulative net income of $3.28 million.

AHC stated that its negotiations with HSCRC resulted in the addition of $46,958,839 to be added to SGMC's GBR on July 1, 2018 to cover the addition of the behavioral health services, contingent on approval of the exemption from CON request for this consolidation..

Commission staff believes there is ample basis for finding that the proposed consolidation is in the public interest. ABH is an important provider of behavioral health services, and its future stability as a key resource will be enhanced. In addition, changing the facility's status from a special hospital falling within the IMD exclusion to a unit of a general hospital will reduce the contribution that Maryland taxpayers must make on their own. Tricia Roddy, Director, Planning Administration at the Maryland Department of Health's Office of Health Care Financing, wrote to MHCC in support of this proposed exemption from CON request:

> Investing in behavioral health services is a top priority for the Maryland Department of Health....By combining the...beds into SGMC, Adventist HealthCare creates an opportunity for Medicaid to receive the federal match for these psychiatric admissions. It is estimated that savings to the State General Fund could total more than $4.5 million from the ABH conversion....In turn, these savings would allow the Maryland Medicaid program to serve more individuals in need of behavioral health services.

Appendix 2.

B. Is not inconsistent with the State Health Plan or the institution-specific plan developed by the Commission

Commission Staff has reviewed this request for exemption and recommends that the Commission find that it is not inconsistent with the applicable State Health Plan ("SHP") standards at COMAR 10.24.07. Appendix 1 to this report reviews and comments on each of the SHP's applicable project review standards for Psychiatric Services with respect to this proposed consolidation.

C. Will result in the delivery of more efficient and effective health care services

As noted above, AHC provided a comparative outlook on revenues and expenses under the current status of ABH and its status as a unit of SGMC that showed very modest reductions in expenses resulting from the proposed consolidation.

AHC states that consolidating these two operating divisions will provide "a number of important benefits which enhance the delivery of health care services for behavioral health

patients, behavioral patients with accompanying medical conditions and general medical patients in the acute care setting." Examples cited by AHC suggest that consolidation will:

- Improve throughput of psychiatric patients from the emergency department at SGMC to admission for a behavioral health condition. Currently, SGMC and ABH are separate entities with different admissions processes, something that will be unified and streamlined once the behavioral health beds at ABH are a unit of SGMC. The medical staffs from both hospitals are also currently separate; combining them will allow psychiatric clinicians from ABH to more easily and more quickly assess patients in the SGMC emergency department, helping to avoid unnecessary admissions and move patients through for admission more efficiently;

- Establish a combined medical staff, under which psychiatrists from ABH will be able to more easily consult medical patients admitted to SGMC, providing an enhanced level of behavioral health care for acute medical inpatients. It will also facilitate shared learning and education among psychiatrists and other medical specialties by establishing one medical executive committee, combined grand rounds and singular semi-annual medical staff meetings; and

- Give ABH access to the more extensive support services that are part of SGMC as "everything from housekeeping to maintenance to human resources to medical records will be combined."

AHC stresses, as most important, the stability and predictability that would be brought to the behavioral health service line through the establishment of a global budget that will provide "a more stable financial foundation for this service...ensuring that] the behavioral health program...remain viable and available for the community...with the service under GBR...the hospital's revenue will be stable and predictable allowing the facility to focus on reducing unnecessary utilization which will free up capacity to serve additional demand in both inpatient and outpatient services."

While most, if not all, of the examples shown in the bullets above could not be achieved without this consolidation, given that ABH and SGMC are already part of the same corporate entity, albeit separate operating divisions, the initiatives described will offer the promise of achieving "more efficient and effective health care services." AHC's assertions concerning revenue predictability and the improved outlook for long-term viability of the service are more compelling. Staff recommends that recommends that the Commission find that this proposal will result in the delivery of more efficient and effective health care services.

VI. CONCLUSION AND STAFF RECOMMENDATION

Staff concludes that Adventist HealthCare's request to consolidate ABH and SGMC as a single general hospital:

- Is in the public interest, as it will create a more stable basis for the ongoing provision of behavioral health services, while reducing ABH's dependence on Maryland's General Fund to pay for behavioral health services for Medicaid patients;
- Is not inconsistent with any provisions of the State Health Plan; and
- Will result in more efficient and effective delivery of health services through fully combining operations of the facilities under the current GBR payment model, which should encourage efforts to reduce unnecessary utilization.

For the reasons set forth above, staff recommends that the Commission **APPROVE** AHC's request for an exemption from CON to consolidate ABH and SGMC.

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ORDER

Having reviewed and considered the information and analysis contained in the Staff Report and Recommendation, it is, this 17th day of May, 2018, hereby **ORDERED** that:

The request for exemption from Certificate of Need filed by Adventist HealthCare, Inc. for the consolidation of Adventist HealthCare Behavioral Health and Wellness and Adventist Healthcare Shady Grove Medical Center, resulting in operation of all the facilities and services of ABH and SGMC as a single general hospital, is hereby **GRANTED.**

APPENDIX 1

CONSISTENCY WITH THE STATE HEALTH PLAN

CONSISTENCY WITH THE STATE HEALTH PLAN

Proposed consolidation of two hospitals of Adventist HealthCare, Inc. - Adventist HealthCare Behavioral Health and Wellness and Adventist Healthcare Shady Grove Medical Center – into Adventist Healthcare Shady Grove Medical Center.

The following is a review of the proposed action against the SHP standards contained in COMAR 10.24.07 in order to assess the proposal's with the State Health Plan.

COMAR 10.24.07 State Health Plan for Facilities and Services: Overview, Psychiatric Services, and Emergency Medical Services

Since the Psychiatric Services Chapter was written there have been significant changes in the role and scope of State-operated psychiatric hospital facilities, as well as substantial changes in use of acute psychiatric beds. As a result, some of the standards in the Chapter are out of date. In particular, Standards AP 1a-d (which reference an obsolete bed need methodology), and Standard AP10 (referencing a minimum required occupancy before bed expansion could be considered) are no longer applicable. Standard AP 11, referring to psychiatric beds at a private psychiatric hospital, is not applicable.

Standard AP 2a. All acute general hospitals with psychiatric units must have written procedures for providing psychiatric emergency inpatient treatment 24 hours a day, 7 day a week with no special limitation for weekdays or late night shifts.

ABH is located next to the SGMC emergency department. AHC documented that procedures for psychiatric emergency inpatient treatment are in place at SGMC, which accepts involuntary and emergency psychiatric emergency admissions on a 24/7 basis with no special limitation for weekdays or late night shifts.

Standard AP 2b. Any acute general hospital containing an identifiable psychiatric unit must be an emergency facility, designated by the Department of Health and Mental Hygiene to perform evaluations of persons believed to have a mental disorder and brought in on emergency petition.

AHC documented that SGMC is designated by the Maryland Department of Health's Behavioral Health Administration as a psychiatric emergency facility, and as such performs mental disorder evaluations of persons brought in on emergency petition.

Standard AP 2c. Acute general hospitals with psychiatric units must have emergency holding bed capabilities and a seclusion room.

AHC states that SGMC has capacity for eight emergency holding beds of which two are seclusion rooms within the main emergency department. In addition, the ABH has a seclusion room for each unit.

Standard AP 3a. **Inpatient acute psychiatric programs must provide an array of services. At a minimum, these specialized services must include: chemotherapy, individual psychotherapy, group therapy, family therapy, social services, and adjunctive therapies, such as occupational and recreational therapies.**

AHC states that the psychiatric programs offered at ABH are tailored to each patient's needs, and that chemotherapy, individual psychotherapy, group therapy, family therapy, social services and expressive therapies are all available. Of its 117 licensed beds, 87 are for adults (with several specialty-cohorted units), eight are for children, and 22 are for adolescents.

Standard AP 3b. **In addition to the services mandated in Standard 3a, inpatient child and adolescent acute psychiatric services must be provided by a multidisciplinary treatment team which provides services that address daily living skills, psycho educational and/or vocational development, opportunity to develop interpersonal skills within a group setting, restoration of family functioning and any other specialized areas that the individualized diagnostic and treatment process reveals is indicated for the patient and family. Applicants for a Certificate of Need for child and/or adolescent acute psychiatric beds must document that they will provide a separate physical environment consistent with the treatment needs of each age group.**

AHC states that ABH's inpatient psychiatric services for children and adolescents are provided in units separate from one another and the adult and geriatric populations and are staffed by a multidisciplinary team providing daily living skills and psycho-educational development. Treatment teams strive to partner with children's/adolescents' schools and/or parents to assist with school-based learning requirements to prevent patients from getting behind in their academic life, use group settings to teach and practice interpersonal skills, and employ both family programs and individualized diagnostic and treatment plans.

Standard AP 3c. **All acute general hospitals must provide psychiatric consultation services either directly or through contractual arrangements.**

SGMC and ABH have full-time and part-time psychiatrists on staff and available for consultation.

Standard AP 4a. **A Certificate of Need for child, adolescent or adult acute psychiatric beds shall be issued separately for each age category. Conversion of psychiatric beds from one of these services to another shall require a separate Certificate of Need.**

ABH already has authorization for its child, adolescent and adult beds, and is requesting an exemption from CON to consolidate those beds into SGMC.

Standard AP 4b. **Certificate of need applicants proposing to provide two or more age specific acute psychiatric services must provide that physical separations and clinical/programmatic distinctions are made between the patient groups.**

The units at ABH, which will continue to be used as they are currently used after the proposed consolidation, are currently configured to separately house children, adolescents, adults and geriatric patients in age-appropriate units.

Accessibility

Standard AP 5. Once a patient has requested admission to an acute psychiatric inpatient facility, the following services must be made available:

(i) intake screening and admission;
(ii) arrangements for transfer to a more appropriate facility for care if medically indicated;
(iii) necessary evaluation to define the patient's psychiatric problem and/or
(iv) emergency treatment.

AHC states that SGMC's Needs Assessment clinical staff will provide the face-to-face evaluation to determine the most appropriate level of care and that a physician will evaluate and determine whether an individual is medically stable to participate in psychiatric care. The Needs Assessment staff will arrange for an appropriate transfer only if needed services and/or appropriate space are not available.

Standard AP 6. All hospitals providing care in designated psychiatric units must have separate written quality assurance programs, program evaluations and treatment protocols for special populations, including children, adolescents, patients with a secondary diagnosis of substance abuse, and geriatric patients, either through direct treatment or through referral.

AHC states that the quality assurance programs of ABH will be reviewed and integrated into SGMC as part of the consolidation, and that program evaluations and treatment protocols for special populations will remain in effect and be integrated into SGMC. Protocols and programming for co-occurring disorders such as substance abuse are in place.

Standard AP 7. An acute general or private psychiatric hospital applying for a Certificate of Need for new or expanded acute psychiatric services may not deny admission to a designated psychiatric unit solely on the basis of the patient's legal status rather than clinical criteria.

AHC is not proposing new psychiatric services, but states that no individual will be denied psychiatric services based on legal status and the consolidated SGMC facility will continue to accept adult involuntary admissions.

Standard AP 8. All acute general hospitals and private freestanding psychiatric hospitals must provide a percentage of uncompensated care for acute psychiatric patients which is equal to the average level of uncompensated care provided by all acute general hospitals located in the health service area where the hospital is located, based on data available from the HSCRC for the most recent 12-month period.

In FY 2016 (the last publicly available data for all hospitals) SGMC provided the equivalent of 4.2% of gross revenue as uncompensated care and ABH provided 7.5% compared to an average of 6.4% for all Montgomery County general hospitals. [Source: HSCRC's Annual Report of Revenue, Expenses, and Volumes, Fiscal Year 2016, Schedule RE.]

Standard AP 9. If there are no child acute psychiatric beds available within a 45 minute travel time under normal road conditions, then an acute child psychiatric patient may be admitted, if appropriate, to a general pediatric bed. These hospitals must develop appropriate treatment protocols to ensure a therapeutically safe environment for those child psychiatric patients treated in general pediatric beds.

This standard is not applicable since SGMC will provide both child and adolescent psychiatric services as currently offered by ABH.

Quality

Standard AP 12a. Acute inpatient psychiatric services must be under the clinical supervision of a qualified psychiatrist.

AHC states that all psychiatric care at SGMC will be directed by a board-certified psychiatrist who is the head of a multidisciplinary team of mental health professionals. All staff psychiatrists will be evaluated by the SGMC Medical Director and the Chief of Psychiatric Services.

Standard AP 12b. Staffing of acute psychiatric programs should include therapists for patients without a private therapist and aftercare coordinators to facilitate referrals and further treatment. Staffing should cover a seven-day per week treatment program.

AHC states that all behavioral health patients admitted to SGMC, irrespective of whether they have a private therapist or not, will receive treatment from a therapist at the hospital. Patients will receive therapeutic programming which provides active treatment in compliance with standards of practice, seven days per week. The patient's therapist is responsible for coordinating aftercare planning to promote continuity of care. In addition to making appointments and referrals to outpatient providers, the therapist ensures that an aftercare plan with recommendations is transmitted to the patient's next level of care provider.

Standard AP 12c
Child and/or adolescent acute psychiatric units must include staff who have experience and training in child and/or adolescent acute psychiatric care, respectively.

ABH confirmed that its child and adolescent unit staff will become employees and medical staff of AHC Shady Grove Medical Center as part of the consolidation and that these staff have both experience and training in caring for children and adolescents with psychiatric conditions. Both child and adolescent services have been provided by ABH for over 10 years.

Continuity

Standard AP 13: Facilities providing acute psychiatric care shall have written policies governing discharge planning and referrals between the program and a full range of other services including inpatient, outpatient, long-term care, aftercare treatment programs, and

alternative treatment programs. These policies shall be available for review by appropriate licensing and certifying bodies.

AHC states that SGMC staff will follow the current ABH discharge planning and referral policies to ensure the patient's next level of care needs are met through a variety of services including inpatient, outpatient, partial hospitalization, aftercare treatment programs and other alternative treatment programs. Care management staff is a part of the treatment team at SGMC and assist with arranging the needed services at discharge to enhance the successful treatment of the individual. The discharge planning and referral policies are available for review by appropriate licensing and certifying bodies.

<u>Standard AP 14:</u> Certificate of Need applications for either new or expanded programs must include letters of acknowledgement from all the following:

(i) the local and state mental health advisory council(s);

(ii) the local community mental health center(s);

(iii) the Department of Health and Mental Hygiene; and

(iv) the city/county mental health department(s).

Letter from other consumer organizations are encouraged.

This standard is not applicable as AHC is not seeking to expand its psychiatric program.

APPENDIX 2

Letter from Maryland Department of Health

MARYLAND
Department of Health
Larry Hogan, Governor · Boyd Rutherford, Lt. Governor · Dennis Schrader, Secretary

December 20, 2017

Ben Steffen
Executive Director
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Mr. Steffen,

I am writing to express my support for Adventist HealthCare's request to the Maryland Health Care Commission to combine both Adventist Behavioral Health & Wellness's (ABH) psychiatric services in Rockville and the Washington Adventist Hospital (WAH) psychiatric beds from Takoma Park into Shady Grove Medical Center (SGMC), an acute general hospital.

Investing in behavioral health services is a top priority for the Maryland Department of Health. Federal rules prohibit Medicaid from receiving a federal match for services rendered in institutions for mental disease (IMDs) for adults between the ages of 21 and 64. Maryland Medicaid requested a waiver to this rule in 2015, which CMS denied for psychiatric IMDs. By combining the ABH and WAH psychiatric beds into SGMC, Adventist HealthCare creates an opportunity for Medicaid to receive the federal match for these psychiatric admissions. It is estimated that savings to the State General Fund could total more than $4.5 million from the ABH conversion and avoid an increase in funding requirements of an additional $2 million by maintaining the federal match for the WAH beds. In turn, these savings would allow the Maryland Medicaid program to serve more individuals in need of behavioral health services.

Adventist HealthCare's identified pathway will both improve access to care for individuals with behavioral health needs as well as create efficiencies in the manner that the All-Payer Model was designed to produce. If you have any questions, please feel free to contact me via phone at 410-767-5809 or via email at tricia.roddy@maryland.gov.

Sincerely,

Tricia Roddy

Tricia Roddy
Director, Planning Administration
Office of Health Care Financing