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July 8, 2016

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Re: Rulings on pending motions and request
Dimensions Health Corporation d/b/a Prince George's Hospital Center
Mt. Washington Pediatric Hospital, Inc.
Docket No. 13-16-2351

Dear Counsel and Ms. Creekmur:

In this letter ruling, I address the following motions and request that are pending in this review: (1) Motion by Dimensions Health Corporation ("Dimensions") d/b/a Prince George's Hospital Center to Strike Exhibit O to the Comments of Doctors Community Hospital; (2) Motion by Dimensions to Strike Supplemental Comments of Anne Arundel Medical Center; and (3) Request by Doctors Community Hospital for an Evidentiary Hearing. I have considered the opposition filed by the opposing party to each motion and request, as well as each reply or response. I grant each motion and deny the request for an evidentiary hearing for reasons stated below.

Dimensions' Motion to Strike Exhibit O to the Comments of Doctors Community Hospital

Regarding Dimensions' Motion to Strike Exhibit O, I find that Doctors Community Hospital ("DCH") has, by its exhibit, exceeded the 25-page limit for comments provided in

Counsel, Ms. Creekmur

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COMAR 10.24.01.08F(1)(e). The 12-page Exhibit O contains further comments and analysis of DCH's view of the impact of the proposed replacement hospital that DCH, on page 2 of its Opposition, characterizes as "[s]upporting documentation." The analysis in Exhibit O should have been included within the 25 pages permitted by the regulation for its comments on Dimensions' application. For this reason, I strike Exhibit O of Doctors Community Hospital's Comments filed May 4, 2015. I also strike Attachment 7 of Dimensions' response to Interested Party Comments, which addressed DCH's Exhibit O.

I note that, in footnote 2 of its June 3, 2015 response to Dimensions' Motion to Strike, DCH states that it "specifically reserves the right to respond to the over 300 pages of additional material and over 100 additional exhibits conveniently submitted by Dimension [sic] after the deadline for submission of Comments." DCH and its counsel were copied on the April 24, 2015 email by which staff sent the additional information request, DCH was aware of MHCC staff's request for additional information and knew that Dimensions would be responding to that request. If DCH desired to make an additional filing in this matter, it should have sought permission for an additional filing when it filed its comments or at a later time, rather than simply reserving its supposed right to do so at a later date. It is important that, when the replacement application was docketed and notice of the docketing was published in the *Maryland Register* on May 4, 2015, the application had been determined by staff to be complete, as provided in COMAR 10.24.01.08C(4). DCH filed comments on the docketed application, as it is permitted to do.

It has now been over a year since Dimensions' May 11, 2015 filing of its response to additional information questions. Because DCH has not attempted to make the additional filing which it indicated that it might later file or sought my permission to make such a filing, I rule that it cannot do so at this time. Given my findings and requests discussed at the May 17, 2016 project status conference and Dimensions' May 23, 2016 notice that it will be filing a modified application, I believe it is likely that DCH's June 2015 position regarding an additional filing is moot at this date. Furthermore, as provided at COMAR 10.24.01.09A(2)(d), Doctors Community Hospital and the other interested parties will have an opportunity to file comments on modifications to the application that are made as a result of the project status conference.

Dimensions' Motion to Strike Supplemental Comments of Anne Arundel Medical Center

Dimensions also filed a motion to strike the supplemental comments of Anne Arundel Medical Center ("AAMC") that were submitted on July 10, 2015. This motion is granted. COMAR 10.24.01.08F(1)(c) provides that a person seeking interested party status and opposing an application may file comments that "state with particularity ... the standards or the review criteria ... that the person ... believes have not been met by the applicant and the reasons why the applicant does not meet those standards or criteria." The regulation provides that an applicant

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may “make *one written filing* responding to all comments on its application” COMAR 10.24.0108F(3)(emphasis added). The regulations do not permit the additional filing made by AAMC. While it is true that COMAR 10.24.01.08F does not specifically prohibit such a filing, the applicant has the burden of proof on its application. In addition, COMAR 10.24.01.08F(3)'s provision that the applicant may make only one written filing in response to all comments on the application evidences regulatory intent that those seeking interested party status are permitted to file only one set of comments on an application.

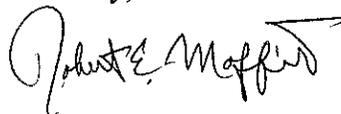
For these reasons, Dimensions' Motion to Strike the Supplemental Comments of Anne Arundel Medical Center is granted. Dimensions' motion contained an Exhibit A, a response to the supplemental comments that it requested that it be permitted to file if I denied the Motion to Strike. Because I have granted the motion, that alternative request is moot.

Request for Evidentiary Hearing filed by Doctors Community Hospital

In my May 23, 2016 letter and attachment, I outlined changes that I recommend that the applicants make in the modified application that they said they will file no later than August 31, 2016. The changes I recommend were further clarified in my letters of May 26 and June 17, 2016. Based upon my extensive evaluation of the proposed project, I have concluded that an evidentiary hearing would not be helpful in this review and, for that reason, deny the request for an evidentiary hearing filed by Doctors Community Hospital. If I later determine that an evidentiary hearing would be useful, I can issue such a ruling *sua sponte*.

I want to remind all parties that this is a contested case and that the *ex parte* prohibitions in the Administrative Procedure Act, Maryland Code Ann., State Gov't §10-219, apply to this proceeding until the Commission issues a final decision.

Sincerely,



Robert E. Moffit
Commissioner/Reviewer

cc: Donna Kinzer, Executive Director, HSCRC
Ben Steffen, Executive Director, MHCC
Paul Parker
Kevin McDonald
Suellen Wideman, AAG
Siobhan K. Madison, AAG