

BEFORE THE MARYLAND HEALTH CARE COMMISSION

IN THE MATTER OF

ADVENTIST HEALTHCARE, INC. D/B/A
WASHINGTON ADVENTIST HOSPITAL

Docket No. 13-15-2349

ADVENTIST HEALTHCARE, INC.
RESPONSE TO HOLY CROSS HOSPITAL MOTION SEEKING TO CAUSE THE DE-
DOCKETING OF THE CERTIFICATE OF NEED APPLICATION

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February 24, 2015

In another attempt to derail the efforts of Adventist HealthCare, Inc. (“AHC”) to enable Washington Adventist Hospital (“WAH”) to provide care and services to the community in a 21st century, state-of-the-art hospital facility and to maintain health care services in Takoma Park, Interested Party Holy Cross Hospital of Silver Spring, Inc. (“HCH”) has filed a motion to cause the Maryland Health Care Commission (“Commission”) to de-docket the above-captioned certificate of need (“CON”) application (the “Motion”). This effort to force a procedural logjam in the Commission’s CON review process is the capstone of HCH’s multi-year strategy to turn its Spring Spring campus into a modern, all private room hospital and to build a new hospital in Germantown, while at the same time blocking development of WAH’s White Oak campus.

In filing, amending and updating its Application, WAH responded to each application question, CON review regulatory criterion and State Health Plan Standard, as well as multiple rounds of additional information questions from the Commission. The Application was found complete and was docketed as such. Yet HCH now suggests to the Commission that it erred because, in HCH’s self-interested view, the application was incomplete. (Motion, p.1.)

In fact, WAH has provided the Commission with a complete description of AHC’s plans for continuing psychiatric services on the Hospital’s current Takoma Park campus, offering all the information requested in the form directed by the Commission. That was procedurally appropriate, inasmuch as the Commission has, in evaluating the planned relocation of WAH to White Oak, looked closely at AHC’s plans for the Takoma Park campus. Had any other procedural path been undertaken, this would have been required of AHC. However, it now would be unfair, improper and a denial of due process for AHC’s application to be de-docketed for complying with all applicable directions.

WAH questions the standing of HCH to even make such an argument. Upon request and as a matter of courtesy, HCH’s counsel has been copied on each and every piece of Commission

correspondence and every WAH submission, including related completeness and additional information materials. No concern of any kind was ever raised. HCH has asserted no basis for concluding that it would be prejudiced were AHC to maintain acute psychiatric services on the Takoma Park campus. It has in no way articulated how the health planning process might benefit were the WAH Application to be thrown out. It has offered no justification for the waste of time, expense and effort that would result -- wasted time, expense and effort on the part of the Commission, as well as WAH. Indeed, there is no good reason to proceed as HCH has proposed. Doing so would accomplish nothing other than a substantial, harmful delay -- and for no reason other than to require AHC to resubmit, with itself as one entity as two "co-applicants", a new CON application that would not contain any information that is substantively different than that currently before the Commission.

WAH fully acknowledges that, under Health-General Article, Section 19-120(f) and COMAR 10.24.01.02A(1), a CON is required before "[a] new health care facility is built, developed, or established." However, the entire premise of HCH's Motion is that this regulation requires a completely separate CON application in which AHC would split itself into co-applicants. That simply is not what the regulation requires or is intended to require. It is inherent in the manner in which the WAH application has been reviewed and docketed that the regulation does not apply to the AHC acute psychiatric beds. This is not the establishment of a new health care facility requiring a separate CON. Rather, this Application represents a unique situation in which:

- An acute general hospital is relocating to a new site.
- There is existing acute psychiatric bed capacity in the health care delivery system.
- The existing acute psychiatric bed capacity is not being transferred but is remaining within the same (AHC) organization.

- The acute psychiatric bed capacity is not relocating. An existing health care service is remaining in its current building, on its current site, offering the same services.
- No capital expenditure related to the acute psychiatric services exceeds the threshold for capital expenditures.
- As required by the Office of Health Care Quality (“OHCQ”) whose requirements and guidance were sought early in the CON process, the existing, continuously operated acute psychiatric beds will continue to be regulated by the same agency and continue to be licensed to AHC.
- A CON application is already pending in which the plan is being evaluated within the regulatory framework structured by both the Commission and OHCQ.

These unique circumstances do not mean that the Commission is devoid of authority to review and approve AHC’s plan for maintaining the psychiatric beds in Takoma Park. Indeed, there is no question as to the Commission’s CON authority over the acute psychiatric services provided on the Takoma Park campus. The Commission properly has exercised that authority by soliciting the information it needs to evaluate AHC’s plan.

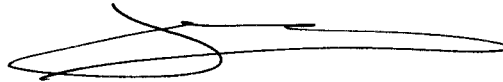
However, HCH urges the Commission to force AHC to file a new, separate CON application to seek an additional permission to maintain the status quo: acute psychiatric beds in their current location in Takoma Park.¹ That notion is patently absurd given that the CON application for the WAH relocation is a perfectly appropriate procedural vehicle for the complete, public review of AHC’s plan for those beds. Indeed, AHC is simply seeking Commission approval for the continued provision of existing acute psychiatric services (which include the only involuntary psychiatric beds in Montgomery County), in order that they might

¹ It is noteworthy that HCH complains about this, even though HCH had in the past abandoned and relinquished its own acute psychiatric unit on its Silver Spring campus.

remain in Takoma Park and continue to be operated by AHC with special hospital licensure status within Adventist Behavioral Health.

Simply put, an existing health care system (AHC) maintaining existing services on an existing site in a continuous, consistent manner as vetted within a pending CON review does not constitute the building, development or establishment of a new health care facility as contemplated by the CON regulations. The manner in which the Commission is handling the current filing sets no precedent -- but the granting of HDH's motion would certainly do so (and an unfortunate precedent, at that). In asking that the Motion be denied, AHC asserts that, in docketing the WAH Application, the agency has not abdicated authority, but rather has asserted its jurisdiction to gather and review whatever information is needed to evaluate AHC's maintenance of acute psychiatric services in Takoma Park as part of one, comprehensive review of the WAH relocation and AHC's plan for the continued provision of psychiatric services on the Takoma Park campus.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT on this 24th day of February, 2015, a copy of the foregoing Adventist HealthCare, Inc. Responses To Holy Cross Hospital Motion Seeking To Cause The De-Docketing Of The Certificate Of Need Application was sent via email and first class mail to:

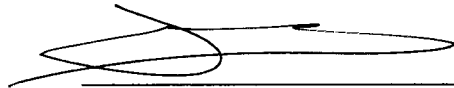
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