IN THE MATTER OF	*	**BEFORE THE**
ANNE ARUNDEL MEDICAL	*	**MARYLAND HEALTH**
CENTER, INC.	*	**CARE COMMISSION**
	*	**Docket No.: 15-02-2360**

* * * * * * * * * * * * *

INTERESTED PARTY DIMENSIONS HEALTH CORPORATION D/B/A PRINCE GEORGE'S HOSPITAL CENTER'S COMMENTS TO MODIFICATION TO CERTIFICATE OF NEED APPLICATION

Dimensions Health Corporation d/b/a/ Prince George's Hospital Center ("PGHC"), by is undersigned attorneys, and pursuant to COMAR 10.24.01.09A(2)(d), submits its Comments to the Modification to Certificate of Need Application ("the Modified CON") filed by Anne Arundel Medical Center ("AAMC"). As discussed in more detail below, the general CON criterion, COMAR 10.24.01.08G(3)(f), required AAMC to include PGHC's existing cardiac surgery program in calculating the impact of its proposed project on existing health care providers and the health care delivery system, yet AAMC failed to do so.

I. BACKGROUND

Commissioner Tanio's October 28, 2016 letter memorialized his request at the project status conference "that AAMC modify its application to provide revised versions of all financial schedules regarding revenues, expenses, and income for: (1) its general hospital operation; and (2) specifically, for its proposed cardiac surgery service." That

letter acknowledged that the information requested may impact findings regarding COMAR 10.24.01.08G(3)(f), as well as other general CON criterion.

II. ARGUMENT

COMAR 10.24.01.08G(3)(f) provides that, "An applicant shall provide information and analysis with respect to the impact of the proposed project *on existing health care providers* in the health planning region, including the impact on geographic and demographic access to services, on occupancy, on costs and charges of other providers, *and on costs to the health care delivery system*." (emphasis added). The Modified CON addresses COMAR 10.24.01.08G(3)(f), but only in part. *See* the Modified CON at 16. First, the Modified CON does not even purport to address the impact of the proposed project on PGHC's existing program. Second, to the extent that the Modified CON addresses the projected impact of the proposed project on costs to the health care delivery system, it continues to reflect this initial failure to consider PGHC and has additional flaws in its analysis as well.

1. The Modified CON Fails to Address the Impact on PGHC's Existing Program.

PGHC'S Supplemental Comments to AAMC's CON ("the Supplemental Comments"), filed June 24, 2016, highlighted the continued growth of PGHC's existing cardiac surgery program. At that time, PGHC had over 100 cardiac surgery cases in Calendar Year 2015 and in FY 2016. *Id.* At the same time, PGHC was awarded a 3 Star Composite Rating - the highest possible rating - for the Composite Quality Ranking for

isolated CABG from the Society of Thoracic Surgeons. *Id.* PGHC's Motion to Supplement also highlighted the fact that 39% of PGHC's cardiac surgery cases from July 2014 to June 2016 came from the intended service area of the proposed AAMC program. *Id.* at 8.

The Modified CON fails to address the impact of the proposed program on PGHC's existing program even though it acknowledges that AAMC's proposed cardiac surgery program will have an impact on OHS Hospitals from as far away as Baltimore, including St. Joseph's Medical Center, which AAMC projects to have only *one* affected case. Revised Exhibit 39. No explanation is provided for the omission of any discussion or consideration of the impact on PGHC.

AAMC's failure to include an analysis of its proposed program's impact on PGHC's existing program is inexcusable but not surprising given AAMC's failure to show that approval of its application will not negatively affect PGHC's existing program by causing PGHC's annualized cardiac surgery volume to drop below 100 cases. *See* COMAR 10.24.1705A(2)(b)(iii). To the extent AAMC has suggested that the volume growth in PGHC's cardiac surgery cases involving residents of Prince George's County is linked to a decline in the University of Maryland Medical Center's ("UMMC") cases, that is not accurate. *See* attached Exhibit 1. Exhibit 1 illustrates that UMMC's volumes of CABG and cardiac valve discharges (APR-DRGs 162, 163, 165,166) from Prince George's County residents represented approximately 2.5% of its total discharges of these 4 designated APR-DRGs. *Id.* The percentage increase to 6.2% in Calendar Year

2014 was the result of the presence of a University of Maryland School of Maryland cardiac surgeon at PGHC, who lead the process of completely revamping the cardiac surgery program at PGHC. During this time of retraining clinical staff, updating clinical equipment, and re-engineering clinical protocols for the cardiac surgery program, cardiac surgery cases were referred to UMMC until the cardiac surgery program at PGHC had completed its clinical program improvement initiative. That situation temporarily increased the percentage of UMMC's cardiac surgery patients from Prince George's County. Calendar Year 2015 and 2016 volume data clarifies that UMMC's volumes of cardiac surgery patients from Prince George's County declined back to the baseline level of calendar year 2012, than what was previously experienced before the associations of PGHC's cardiac surgery program with UMMC and University of Maryland School of Medicine. *Id.* Therefore, the temporary increase that UMMC experienced of cardiac surgery cases of residents from Prince George's County was strictly due to the temporary referral of cases to UMMC from PGHC until clinical program improvement initiatives were completed.

AAMC's failure to address the impact that its proposed program will have on PGHC's existing program is material given the current size and anticipated growth of PGHC's program, as well as the source of PGHC's cases, as discussed in PGHC's Supplemental Comments.

2. The Modified CON Does Not Accurately Reflect the Impact on Costs to The Health Care Delivery System.

AAMC asserts that the revised tables and charts in the Modified CON "demonstrate that AAMC's proposed cardiac surgery service would generate even greater savings to the health care delivery system than originally projected." *See* the Modified CON at 16. More specifically, AAMC's revised response to general CON criterion COMAR 10.24.01.08G(3)(f) projects a total health care expenditure savings of $11,394,078 resulting from AAMC's proposed cardiac surgery service. This is an increase from the $7.74 million AAMC projected in its original CON. *Id.* That savings is based on the assumption that AAMC will receive 50% of the revenue for its 337 total projected cases for FY 2018, including 227 cases that would have been performed at Washington Hospital Center (221 cases) or George Washington University Hospital (6 cases). *See* Revised Ex. 39.

The assumptions underlying AAMC's projected total health care expenditure saving are inaccurate for two related reasons. First, as discussed above, AAMC completely fails to acknowledge that, if its CON Application is approved, AAMC's new program will shift patients away from PGHC's existing program and, accordingly, it fails to accurately calculate the impact of this shift on overall savings. Second, AAMC fails to account for the fact that patients who would otherwise go to Washington, D.C. hospitals for care are going to go, and will continue to go in increasing numbers, to PGHC. Accordingly, AAMC's estimate of 227 cases being transferred to it from D.C. hospitals is

unsubstantiated. Third, to the extent that AAMC's proposed program did shift cases from D.C. hospitals, that shift would create capacity in those hospitals to take cases that would otherwise have gone to PGHC.

It is reasonable to assume that PGHC's existing program will continue drawing from patients previously treated in Washington, D.C. The growth of PGHC's existing program and the fact that patients who would otherwise go to hospitals in Washington, D.C. are going and will go to PGHC materially impacts AAMC's calculations regarding a net savings to the health care system. Revised Exhibit 39 fails to account for the fact that patients who would otherwise go to D.C. hospitals for care are going and will continue going to PGHC, thereby decreasing the number of cases shifting from Washington, D.C., currently listed in Revised Ex. 39 as 227. Because of AAMC's failure to consider the impact of its proposed program on PGHC, its calculations are inaccurate, and overstate its projected savings to the healthcare system.

The Modified CON also fails to take into consideration that, to the extent a program at AAMC would draw patients who would otherwise have gone to D.C. Hospitals for care, the D.C. Hospitals will have capacity to draw increasingly from Prince George's County. Thus, even if AAMC is correct with regard to the number of cases it might draw from D.C. Hospitals, that shift could well have the indirect effect of shifting cases from PGHC to D.C.

The Modified CON's calculation of savings to the health care system fails to take into consideration the cost to the system of the anticipated shift of cases away from

PGHC to either AAMC or DC Hospitals. Its calculation of savings to the health care system is, therefore, flawed in multiple respects.

III. CONCLUSION

Based on AAMC's continued failure to recognize and analyze the adverse impact its proposed program will have on PGHC's existing program, and the consequent effect of that impact on its calculation of the overall effect on costs of the health care system, PGHC requests that AAMC's CON application be denied.

Dated: November 14, 2016.

Respectfully submitted,

_____

M. Natalie McSherry
Christopher C. Jeffries
Louis P. Malick
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202
Phone: 410-752-6030
Fax: 410-539-1269
nmcsherry@kg-law.com
Counsel for Interested Party Dimensions Health Corporation d/b/a Prince George's Hospital Center

IN THE MATTER OF	*	**BEFORE THE**
ANNE ARUNDEL MEDICAL	*	**MARYLAND HEALTH**
CENTER, INC.	*	**CARE COMMISSION**
	*	**Docket No.: 15-02-2360**

* * * * * * * * * * * * *

INTERESTED PARTY DIMENSIONS HEALTH CORPORATION D/B/A PRINCE GEORGE'S HOSPITAL CENTER'S COMMENTS TO MODIFICATION OF CERTIFICATE OF NEED APPLICATION

ATTESTATION BY JEFFREY L. JOHNSON

Affirmation: I hereby declare and affirm under the penalties of perjury that the facts stated in the Comments to Modification of Certificate of Need Application are true and correct to the best of my knowledge, information, and belief.

_____ November 14, 2016

Jeffrey L. Johnson, MBA, FACHE Date
Senior Vice President, Strategic Planning & Business Development
Dimensions Healthcare System

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of November 2016, a copy of the foregoing Comments to Modification to Certificate of Need Application was sent via email and first-class mail to:

Suellen Wideman, Esq.
Assistant Attorney General
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore MD 21215-2299
suellen.wideman@maryland.gov

Joseph Ciotola, M.D
Health Officer
Queen Anne's County
206 N. Commerce Street
Centreville, MD 21617-1118
joseph.ciotolamd@maryland.gov

Jinlene Chan, M.D.
Health Officer
Anne Arundel County Health Dept.
Health Services Building
3 Harry S. Truman Parkway
Annapolis MD 21401
hdchan22@aacounty.org

Neil M. Meltzer
President & Chief Executive Officer
LifeBridge Health
2401 West Belvedere Ave.
Baltimore MD 21215-5216
nmeltzer@lifebridgehealth.org

Leana S. Wen, MD
Health Commissioner
Baltimore City
1001 E. Fayette Street
Baltimore, MD 21202
health.commissioner@baltimorecity.gov

Steve Schuh
County Executive
Anne Arundel County
PO Box 2700
Annapolis MD 21404
countyexecutive@aacounty.org

Leland Spencer, M.D.
Health Officer
Caroline & Kent Counties Health Dept.
403 S. 7th Street
P.O. Box 10
Denton, MD 21629
leland.spencer@maryland.gov

John T. Brennan, Jr., Esq.
Crowell & Moring LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004
jbrennan@crowell.com

Fredia Wadley
Health Officer
Talbot County Health Department
100 S. Hanson Street
Easton MD 21601
fredia.wadley@maryland.gov

Dr. Maura J. Rossman
Health Officer
Howard County Health Department
8930 Stanford Boulevard
Columbia MD 21045
mrossman@howardcountymd.gov

Jonathan E. Montgomery, Esq.
Gordon Feinblatt LLC
233 East Redwood Streeet
Baltimore MD 21202
jmontgomery@gfrlaw.com

Thomas C. Dame, Esq.
Ella R. Aiken, Esq.
Gallagher Evelius & Jones LLP
218 North Charles Street, Suite 400
Baltimore, Maryland 21201
tdame@geglaw.com
eaiken@gejlaw.com

Christopher C. Jeffries