IN THE MATTER REGARDING	*	BEFORE THE
GREEN SPRING STATION SURGERY CENTER CERTIFICATE OF NEED APPLICATION	*	MARYLAND HEALTH CARE COMMISSION
	*	Docket No. 15-03-2369

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LIFEBRIDGE HEALTH, INC. – WRITTEN COMMENTS OF INTERESTED PARTY REGARDING THE GREEN SPRING STATION SURGERY CENTER CERTIFICATE OF NEED APPLICATION

I. INTRODUCTION

LifeBridge Health, Inc. ("LifeBridge Health") submits these written comments ("Comments") as an "interested party" in the review of the Certificate of Need ("CON") Application submitted by Johns Hopkins Ambulatory Surgery Centers Series ("Johns Hopkins" or the "Applicant") to establish an outpatient ambulatory surgery center at Green Spring Station ("Green Spring" or "the GSSSC"). The Applicant's proposal would add five new outpatient surgery rooms to the service area (and a shell in another room for future use), along with four procedure rooms.

There is no need for additional outpatient surgical capacity in the service area. Johns Hopkins' CON Application advances internal institutional goals only, through a plan to "capture" referrals currently being directed to other existing underutilized facilities. This internal business goal of keeping patients "in the Johns Hopkins family" does not reflect the needs of the public, nor is it consistent with general health planning principles or the purposes of the Maryland CON program.

In fact, Maryland's CON program and the Maryland Health Care Commission ("MHCC" or "Commission") recognize the sharp distinction between furthering institution-specific "needs" and meeting the needs of the population it services. The Applicant here does not address public

need. Because Applicant presents no evidence in support of a public need for the additional outpatient surgical services, the CON proposal may not be approved.

More specifically, the General Review Criteria set forth at COMAR 10.24.01.08G and the State Health Plan ("SHP") Chapter on General Surgical Services at COMAR 10.24.11.01–.07, which govern the review of this proposal, set forth a specific needs assessment methodology to be applied here. The Applicant does not address this methodology or the most essential review criterion. If this methodology were applied, it would demonstrate that, as the State Health Plan concludes, "supply . . . exceeds demand" for outpatient surgery services. COMAR 10.24.11.03.

In addition to the cornerstone criterion related to Need and State Health Plan conformance, LifeBridge Health submits that the Applicant does not address and/or meet other essential General Review Criteria within COMAR 10.24.01.08G:

- the General Review Criterion requiring a demonstration of the cost effectiveness of the project compared to services offered at alternative existing facilities as set forth at COMAR 10.24.01.08G(3)(c); or
- the General Review Criterion requiring an assessment of the impact of the project on existing providers "and the health care delivery system," as set forth at COMAR 10.24.01.08G(3)(f).

The Johns Hopkins application also does not meet other standards for review as set forth in the SHP, particularly the SHP standards that require:

- proof of the proposal's financial feasibility under COMAR 10.24.11.05B(8);
- consideration of the impact of the project on existing providers under COMAR 10.24.11.06C.

As a result of all these issues, as more fully described below, the Applicant has not demonstrated that its proposal to add five new outpatient surgery rooms to the service area is needed or approvable. Accordingly, this Application should be denied.

II. LIFEBRIDGE HEALTH, INC. QUALIFIES AS AN INTERESTED PARTY IN THIS PROCEEDING AND THUS IS QUALIFIED TO SUBMIT THESE WRITTEN COMMENTS.

Pursuant to COMAR 10.24.01.08F(1) and the notice published at 42 Md. Reg. 1581 (Dec. 11, 2015), LifeBridge Health qualifies for interested party status in the review of Johns Hopkins' Application. LifeBridge Health owns and operates three acute care hospitals, all of which are located in and provide outpatient surgery services to residents of the Applicant's self-described service area. Each of these hospitals will be adversely affected by the Applicant's project. Accordingly, LifeBridge Health qualifies as an interested party and is qualified to submit written comments in this CON review proceeding.

A. LifeBridge Health, Inc.

LifeBridge Health is a non-stock, non-profit corporation which, through its subsidiaries, offers a full continuum of health care services to Maryland residents. LifeBridge Health owns and operates the following acute care hospitals, each of which provides the full range of health care services, including outpatient surgical services, to its patients:

- Sinai Hospital, 2401 W. Belvedere Ave. Baltimore, MD 21215;
- Northwest Hospital, 5401 Old Court Road, Randallstown, MD 21133; and
- Carroll Hospital, 200 Memorial Ave, Westminster, MD 21157.

These three LifeBridge Health hospitals are all located within Applicant's self-described service area. *See* Exhibits 11 and 24 to the Application and **Attachment A**. In fact, as reflected in the chart below, in FY 2015, these LifeBridge Health hospitals provided over 42,800 surgical services, of which over 26,500 (62%) were outpatient surgery cases.

Hospital	Sinai	Northwest	Carroll
ED	424	39	N/A
Inpatient	8,209	2,187	2,423
Other	65	2,980	N/A
Same Day Surgery	14,791	6,492	5,253
TOTAL CASES	**23,489**	**11,698**	**7,676**
Operating Rooms	25	8	10
Cases/OR	940	1,462	768

Source: LifeBridge Health.

In FY 2014, a total of 22,230 residents of the Applicant's service area received outpatient surgery services at LifeBridge Health facilities. *See* **Attachment B.**

B. LifeBridge Health is An "Interested Party" Authorized to Submit Written Comments in this CON Proceeding.

Any "interested party" is entitled to file written comments in a CON proceeding. COMAR 10.24.01.08F. An "interested party" includes "[a] person who can demonstrate to the reviewer that the person would be adversely affected, in an area over which the Commission has jurisdiction, by the approval of a proposed project." COMAR 10.24.01.01(B)(20)(e). An "adversely affected" person includes *inter alia* an entity who: (a) Is authorized to provide the same service as the Applicant in the same planning region used for purposes of determining need under the SHP," or . . . . (d) can demonstrate to the reviewer that the person could suffer a potentially detrimental impact from the approval of a project before the Commission, in an issue area over which the Commission has jurisdiction." COMAR 10.24.01.01(B)(2)(a) and (d). LifeBridge Health qualifies as an interested party under both of these provisions.

For purposes of the evaluation of a CON for surgical application services under SHP's Chapter 11, there is no "defined" planning region. Rather, the Applicant is required to itself define and establish the "service area" for its proposed project. The Applicant's self-defined service area, set forth at **Attachment A**, serves as a proxy for any formally-adopted "planning region" for purposes of evaluating interested party status.

LifeBridge Health asserts that it will be adversely affected by the Applicant's plan to "capture" referrals currently being treated at other facilities in its service area. By virtue of LifeBridge Health hospitals' location within this service area, and its treatment of service area residents, there is no question that potential patients of LifeBridge Health facilities will be among those "captured" by the new GSSSC. Indeed, Johns Hopkins even acknowledges this, at least with respect to LifeBridge's Northwest Hospital Center. CON Application p. 112. In sum, the LifeBridge Health facilities will inevitably lose referrals, and will suffer financial harm, as a result of this project. Consequently, LifeBridge Health and its hospitals could clearly suffer "detrimental impact" within the meaning of COMAR 10.24.01.01B(2)(a) and (d) were this application approved.

For the above reasons, LifeBridge Health qualifies as an "interested party" to this Application and CON review proceeding, and as such submits these written comments as an interested party. These comments are particularly relevant to the review process in that LifeBridge Health asserts that the Applicant has neither addressed nor meets essential provisions of the General Review Criteria and the State Health Plan, and so it cannot to justify the "public need" for this project.

III. THE APPLICATION DOES NOT MEET – AND IN SOME CASES EVEN ADDRESS – ESSENTIAL GENERAL REVIEW CRITERIA AND THEREFORE MAY NOT BE APPROVED.

In the submission of any CON Application, the Applicant bears the burden of demonstrating that the proposed project meets the applicable "General Review Criteria." COMAR 10.24.01.08G(1) and (G)(3). Unless the Applicant meets this burden of proving conformance with these General Review Criteria, it may not obtain CON approval. In this CON review, the Applicant cannot meet this burden, and in some cases does not even address essential General Review Criteria relevant to its application as set forth at COMAR 10.24.01.08G(3). In

addition, the Applicant also does not address specific essential requirements of the State Health Plan Chapter applicable to new outpatient surgery facilities.

A. The Applicant Cannot Demonstrate Need as Required By COMAR 10.24.01.08G(3)(b).

COMAR 10.24.01.08G(3)(b), is quite directly titled "Need." This criterion constitutes the cornerstone consideration in any CON review; an assessment of public need in fact comprises the very essence of the MHCC's purpose and obligation. The burden to prove public need rests squarely upon the Applicant. This burden has not been met.

The Need Criterion provides as follows:

> 3. Need. The Commission shall consider the applicable analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the Applicant has established unmet needs of the population to be served and established that the proposed project meets those needs.

COMAR 10.24.01.08G(3)(b). The Applicant here does not meet its burden under this criterion in two respects. First, the Applicant does not address the question of whether there is "unmet need" for the service area population it intends to serve. In fact, there is no "unmet need." Second, Applicant does not fully apply the need methodology set forth in the General Surgical Services Chapter of the SHP. COMAR 10.24.11.05B and 10.24.11.06B.

The Applicant here identifies no unmet public need. Instead, this Application focuses on capturing existing market share and redirecting referrals from existing under-utilized providers. Shifting market share is not the goal of the CON review process, and does not equate to "need" for a new facility.

Simply stated, the Applicant's plan for utilization of the new facility is dependent on:

- moving existing market share from its downtown site to the Green Spring location; and

- encouraging its Green Spring-based physicians to re-route referrals currently sent to other facilities to the proposed Johns Hopkins facility (the Applicant calls this "referrals captured" at CON Application page 10).

This "plan" constitutes an institution-specific business strategy. However, there is a public need methodology set forth in the SHP which must be applied to applications for additional outpatient surgical services. The methodology is set forth at COMAR 10.24.11.05B and 10.24.11.06B, and is addressed more fully in Section IV below. Importantly, this methodology requires an applicant to:

- identify similar services in its service area;

- establish the utilization of these services;

- report on and assess the impact the proposed new facility will have on these service area providers; and

- identify trends in utilization of the service area providers – and the impact of these trends on the need for the new facility.

As more fully described below, the Applicant simply ignores this methodology in the SHP, perhaps recognizing that there is no public need for additional outpatient surgical capacity in its service area, and that none can be proven.

In addition to not demonstrating need for the Green Spring project's surgical rooms, the Applicant cannot support its "backfill" plan necessary to replace volume at existing Johns Hopkins facilities. The Applicant simply asserts that 71.8% or approximately 3,640 of the projected FY 2020 operating room cases to be treated at the GSSSC will come from its own facilities, based on the FY 2015 "baseline" estimate of 3,264 shifted cases. *See* CON Application, p. 103. The Applicant then asserts that the loss of patient volume at its hospitals will be "replaced" over a period of two years by a 2% annual growth in the inpatient and

outpatient surgical operating room minutes. *See* CON Application, p. 106. This "backfill strategy" involves a projected increase of 538,485 operating room minutes between FY 2015 and FY 2020.. There is little support, however, for this anticipated increase in volume, other than the historical trend in operating room minutes reported between FY 2008 and FY 2015, before the state's revised Medicare Agreement and GBR Agreements went into effect. Specifically, the Applicant offers no evidence of:

- the unmet need this growth plan is intended to respond to;
- how Johns Hopkins will generate patient volume for the backfill; or
- the impact this backfill of over half a million new surgical minutes at Johns Hopkins Hospital will have on existing, non-Johns Hopkins facilities.

In sum, the Applicant here (a) does not satisfy the Need review criteria; (b) does not apply the need methodology as set forth in the SHP at COMAR 10.24.11.05B and 10.24.11.06B and (c) does not present any independent rationale or evidence that a public need exists for additional outpatient surgical services in its self-described service area.

IV. THE APPLICATION IS INCONSISTENT WITH THE REVIEW CRITERIA WITHIN THE APPLICABLE SHP CHAPTER FOR GENERAL SURGICAL SERVICES.

The General Review Criterion at COMAR 10.24.01.08(G)(3)(a) of the SHP requires that an Application be evaluated according to all relevant SHP "standards, policies, and criteria." Johns Hopkins' CON Application is inconsistent with the policies and criterion set forth in the applicable SHP Chapter, and is thus not approvable.

Most importantly, the Applicant has incorrectly applied the need methodology required in COMAR 10.24.11.05B and 10.24.11.06B. In addition, the Applicant's proposal is inconsistent with the SHP's overall policies and does not demonstrate "financial feasibility" as required by

COMAR 10.24.11.05B(8). The Applicant also overlooks its "impact on other facilities and surgical case volumes" under COMAR 10.24.11.06C (addressed in Section IV.C.2 of these Comments).

A. The Applicant Incorrectly Applies the SHP's Needs Assessment Methodology.

The SHP Chapter on General Surgical Services sets forth the required need methodology at COMAR 10.24.11.06B. See **Attachment C**. For purposes of this need methodology, it is up to the Applicant to first define its "service area." The Applicant has done so in Exhibits 11 and 24 to the CON Application. Having established this service area, however, the CON Application pursues its analysis of the referral streams originating from this service area without applying the need assessment methodology set forth at COMAR 10.24.11.06B. Unless the Applicant applies this methodology to show need, the Applicant cannot demonstrate consistency with the SHP. More specifically, the SHP need methodology requires the Applicant to:

- include information on the number of operating room cases in the "likely service area." The Applicant did not so provide.
- include information on the operating room capacity and inventory of the service area. The Applicant did not so provide.
- include information on operating room utilization for each type of surgical operating room, as applicable. The Applicant did not so provide.
- provide projections of future demands for operating rooms in the service area. The Applicant did not so provide.

LifeBridge Health submits that an "assessment of need" based on the requirements of the SHP would, in fact, have demonstrated that the service area population defined by the Applicant does not require additional outpatient operating room supply.

B. The Application is Inconsistent with Explicit Policy Statements in the Applicable SHP Chapter.

In the General Surgery Services Chapter, SHP states quite clearly that: "the supply of outpatient surgical services exceeds the demand for such services." COMAR 10.24.11.03. Since need only exists when demand exceeds supply, the policy set forth in the SHP articulates that "no need" exists for additional outpatient surgery services such as the Applicant proposes.

C. The Applicant Has Not Demonstrated Compliance with Other Components of the SHP as Required By COMAR 10.24.01.08G(3)(a).

1. The Applicant Has Not Established a Proper Foundation for Asserting Financial Feasibility Under COMAR 10.24.11.05B(8).

COMAR 10.24.11.05B(8)(a) requires that "[a]n Applicant shall document that (i) utilization projections are consistent with observed historic trends in use of the applicable service(s) by the likely service area population of the [proposed] facility" and that "(ii) revenue estimates are consistent with utilization projections." (emphasis added). As noted above, the Applicant has not provided service area utilization need projections. Absent the proper and required foundation for assessing financial feasibility, these calculations are not verifiable.

Even assuming the Applicant were not required to abide by the methodologies set forth in the SHP, it independently makes an unsupported assumption regarding its ability to retain its current level of Johns Hopkins outpatient surgical cases in volume and grow the GSSSC. This expectation is based in significant part on the presumption that Green Spring's suburban location will attract 85% of its patients from the same service area as Johns Hopkins Hospital. The Applicant does not provide support for its assumption that patients would travel from Washington, D.C., or Arlington, Virginia to an outpatient surgery center 50-60 miles away in Lutherville, Maryland. The likelihood that Johns Hopkins' current patient population would bypass numerous other providers on their way to Lutherville is a dubious proposition.

2. The Applicant Did Not Fully Assess the Impact of its Application on Existing Providers in its Service Area As Required By COMAR 10.24.11.06C.

As detailed in Section VI below, Applicant's incomplete impact assessment under COMAR 10.24.11.06C of the SHP should itself lead the Commission to deny approval of the CON proposal.

V. THE APPLICANT CANNOT SHOW THAT ITS PROPOSAL IS MORE COST EFFECTIVE THAN MAINTAINING THE STATUS QUO, AND THUS CANNOT MEET THE GENERAL REVIEW CRITERION AT COMAR 10.24.01.08G(3)(C).

This CON Application should also be denied because the Applicant does not demonstrate consistency with COMAR 10.24.01.08G(3)(c). This General Review Criterion requires the Commission to compare the cost effectiveness of the proposed project with other alternatives for providing the service. The burden is on the Applicant to demonstrate that its proposal is more cost effective than those alternatives. The Applicant's cost analysis should go beyond development costs and also take into account "life cycle" costs of project alternatives.

The key alternative the Applicant must address is that existing facilities could provide the proposed service GSSSC seeks to offer. COMAR 10.24.01.08G(c). The Applicant cannot do so because it cannot demonstrate that its proposal: (a) meets an unmet need and thus resolves a "problem"; (b) is the most cost effective way of resolving this problem that does not truly exist; or (c) if approved, will reduce health care system costs. In fact, these costs will increase.

To serve as a "cost effective alternative," GSSSC must show there is a problem it can solve. However, outpatient surgery capacity in the service area is already sufficient. There are no waiting lists for services and no access barriers, and outpatient surgery capacity keeps growing. Indeed, the Applicant intends to build a new facility to draw patients away from other existing service providers, most of which currently have excess capacity. Adding still more outpatient surgery capacity would not serve any unmet demand imposed by the system as a

whole. In fact, adding additional unneeded capacity to an already underutilized system will only increase costs to the health care system.

The Applicant does present a limited analysis of alternative approaches to the construction of GSSSC. On pages 90-91 of the CON Application, Applicant states that it has considered the following alternatives: (1) do nothing; (2) other real estate options on the I-83 corridor; or (3) building additional operating rooms at the White Marsh Surgery Center. For the Applicant, "doing nothing" is not an acceptable alternative. The remaining alternatives, while helpful to Johns Hopkins, present the same issue as approving the CON would – they would likely add costs to the system.

Finally, before the Commission accepts the assertion that the proposed GSSSC is a cost effective alternative and will have a positive impact, the Commission should assess the potential revenue impact of projected utilization on Johns Hopkins Hospital. To be clear, Johns Hopkins' (and LifeBridge) hospital revenues, including those associated with outpatient surgeries performed at its inpatient hospitals, are monitored and regulated by the Maryland Health Services Cost Review Commission ("HSCRC"). Johns Hopkins is intent upon moving patients from a rate-regulated hospital location to the unregulated GSSSC. Despite adding costs to the system by compounding excess capacity in the service area, Johns Hopkins contends that outpatient surgery services will cost less at the GSSSC. Johns Hopkins counts on its globally budgeted revenue ("GBR") remaining unchanged and believes that redirecting patients to the GSSSC is consistent with the cost reduction goals of the new Medicare GBR waiver and population health. However, this tactic neglects to account for the fact that Johns Hopkins' GBR will not change while it creates a new stream of revenue from its unregulated GSSSC. Thus, while moving cases from Johns Hopkins' hospital facilities to the proposed GSSSC would be

cost effective for Johns Hopkins, it would not be cost-effective for Maryland's health care system as a whole.

LifeBridge Health submits that the Commission, in consultation with the HSCRC, should explicitly address how Johns Hopkins' GBR should account for the anticipated financial impact of the outpatient surgery volume shift from its inpatient hospitals to outpatient facilities. Commensurate with the anticipated costs of over 2,500 outpatient surgery cases shifting to the GSSSC, the Commission and HSCRC should recognize the purported cost savings the Applicant's proposal will generate by reducing Johns Hopkins inpatient hospitals' allocations under its GBR agreements. All of the above argues against the cost effectiveness assertions the Applicant has presented, and should result in the denial of the CON Application.

VI. THE APPLICANT'S PROPOSAL DOES NOT ANALYZE ITS IMPACT ON EXISTING SERVICE AREA PROVIDERS AND THE HEALTH SYSTEM AS REQUIRED BY COMAR 10.24.01.08G(3)(f).

As noted above, the Application does not fully address COMAR 10.24.01.08G(3)(f) regarding the impact of the proposal on existing providers and the health care delivery system. *See* CON Application pp. 113-114. According to this General Review Criterion, 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, <u>including the impact on geographic and demographic access to services, on occupancy, on costs and charges of other providers, and on the costs of the health care delivery system</u>." COMAR 10.24.01.08G(3)(f) (emphasis added). The Applicant does none of this, providing MHCC with no basis to find consistency with this General Review Criterion.

On CON Application pages 37-38, Johns Hopkins sets forth its historic outpatient surgery utilization and the projected service area of the proposed GSSSC. According to the Applicant, the Johns Hopkins service area includes 410 zip code areas, of which 108 zip code areas

comprise the Primary Service Area (PSA) and 302 comprise the Secondary Service Area (SSA). *See* Exhibits 11 and 24. The Applicant states the GSSSC's likely service area population included 10,259,895 people in FY 2014. *See* CON Application Exhibit 25.

By claiming this service area, Johns Hopkins must then consider the presence of the other providers within that geographic area. It does not. In FY 2014, there were 24 ambulatory surgery facilities in Baltimore City alone, including 12 hospitals; 69 facilities in Baltimore County, including 4 hospitals; and 10 facilities in Carroll County, including one hospital. *See* **Attachment D** for the full 2014 list of Maryland providers of ambulatory surgery services, by jurisdiction.

In FY 2014, Johns Hopkins Hospital reported 38,681 outpatient surgery cases performed on residents of its primary (23,062) and secondary (15,619) service areas. During that same period, the LifeBridge Health hospitals (Sinai Hospital, Northwest Hospital and Carroll Hospital) performed 22,230 cases of outpatient surgery on residents of Johns Hopkins Hospital's primary service area. These data indicate a significant overlap in the service areas of the health systems. Yet, the Applicant projects minimal impact on LifeBridge.

The projected volumes of surgical cases in the future at GSSSC include the following assumptions:

1. in FY 2014, 38,681 outpatient surgery cases were performed at Johns Hopkins Hospital on residents of the PSA and SSA. (See CON Application, Exhibit 11);
2. The Applicant projects that 5,078 outpatient surgery cases will be performed at the GSSSC in FY 2020, of which 3,670 cases (72%) would have otherwise been referred to a Hopkins site, leaving 1,408 cases that would have been performed in

operating rooms at other facilities, including LifeBridge Health hospitals (CON Application, pp. 67 and 102); and

3. 78.8% of the 3,670 shifted cases are expected to be shifted from Johns Hopkins Hospital and Bayview Medical Center (CON Application at p. 103).

Nonetheless, the documentation provided by the Applicant to assess the impact of its proposal on existing providers and the health care delivery system identifies only a handful of existing providers as being affected by the Applicant's referral "capture" program.

Finally, the Applicant presents a "backfill" strategy to replace the volumes of cases to be shifted from Johns Hopkins Hospital to the GSSSC. Of the 5,078 outpatient surgery cases that are projected for the GSSSC in FY 2020, 2,570 (50.6%) are the FY 2015 "baseline" outpatient surgery cases that are anticipated to shift from Johns Hopkins Hospital and Bayview Medical Center. *See* CON Application, p.105. The Applicant provides little or no analysis as to how Johns Hopkins intends to generate additional surgery patients for its backfill or what the impact of its backfill strategy will be, other than to say that it depends on the continuation of 2% annual growth in outpatient and inpatient operating room minutes at Johns Hopkins Hospital through FY 2019. *See* CON Application, p. 106. Specifically, there is no discussion of how that 2% projected growth rate will impact current service area providers. This "backfill" strategy will be especially troubling to existing providers of surgical services when the SHP has already found that "supply" exceeds "demand" on the outpatient surgery market.

In addition to the proposed facility's direct impacts on existing providers, LifeBridge Health submits that the CON proposal would negatively impact patients, especially with respect to geographic accessibility to outpatient surgery services. Applicant appears to be intent on re-routing Baltimore City residents from a convenient downtown location to the suburbs. As shown

in **Attachment E,** Johns Hopkins' patient draw from Baltimore City and Baltimore County is significant.[1] The proposed site of the GSSSC is located in Baltimore County, 11.5 miles from Johns Hopkins Hospital. According to Google Maps, the travel time by public transportation from the Johns Hopkins Hospital area to the proposed GSSSC is almost an hour. Forcing patients in Baltimore City to go to the suburbs for services would be inconvenient, particularly if these patients are dependent on public transportation. This would also negatively impact costs to the system and for patients, factors that should be accounted for in the cost effectiveness analysis discussed in Section V of these Comments.

VII. CONCLUSIONS

The Application before the MHCC presents questions central to the Commission's authority and purpose: shall an institution's internal business goals prevail over the assessment of public need, and may these internal goals outweigh public need in the Commission's deliberations? In maintaining focus on the health care system, its existing providers, and, especially, its patient population, the CON regulatory framework requires all CON applicants to address and demonstrate public need through conformance with the CON General Review Criteria and the SHP, and applicable needs assessment methodology. The CON Application does not: (a) demonstrate public need; (b) apply the needs assessment methodology required of all applicants; or (c) conform with the other essential review criteria and standards in the General Surgical Services chapter of the SHP or in the General Review Criteria. The Applicant presents a business plan for increased market share, but does not present its case in a manner consistent with applicable CON requirements. As a result, the Commission should not approve Johns Hopkins' CON Application.

[1] We note that the Howard County volumes likely are associated with Howard County General Hospital which is part of the Johns Hopkins system.