

January 4, 2016

**VIA E-MAIL AND U.S. MAIL**

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Maryland Health Care Commission  
4160 Patterson Avenue  
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Re: Petition by Sheppard Pratt Health System, Inc. for Amendment of State Health Plan for Facilities and Services: Overview, Psychiatric Services and Emergency Services (COMAR 10.24.07)

Dear Ms. Fleck:

This letter is written on behalf of Anne Arundel Medical Center, Inc. (“AAMC”), to support the proposed amendment to the State Health Plan for Facilities and Services: Overview, Psychiatric Services and Emergency Services (COMAR 10.24.07) (the “Psychiatric Services Chapter”) requested by Sheppard Pratt Health System (“Sheppard Pratt”) in its petition dated November 13, 2015.

Currently, under Approval Policy (“AP”) 10 in the Psychiatric Services Chapter, the Commission may not approve the expansion of existing adult acute psychiatric bed capacity, even if the applicant demonstrates need for the expansion, unless the applicant’s existing capacity meets certain occupancy standards for two consecutive years prior to submission of the application. Sheppard Pratt has requested the Commission to amend AP 10 to give the Commission the discretion to approve an application to expand existing capacity that does not meet the occupancy standard. Specifically, with the amendment to AP 10 proposed by Sheppard Pratt, the Commission would have discretion to approve an expansion in such a circumstance if the applicant demonstrates why the occupancy standards should not apply.

The amendment to AP 10 requested by Sheppard Pratt is appropriate and well-founded from a health planning perspective. An applicant should be allowed to demonstrate why the occupancy threshold should not apply to its project, and the Commission should have the flexibility to consider the applicant’s particular circumstances and approve the project even though the occupancy threshold is not met. With regard to Sheppard Pratt’s application, the functional

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limitations of its existing building and the constraints imposed by having only double-occupancy rooms demonstrate why the occupancy level experienced over the last two years does not reflect the occupancy level that Sheppard Pratt can be expected to have in a modern facility with single occupancy rooms.

Further, as Sheppard Pratt's situation demonstrates, a strict application of the occupancy standard can produce a result that is contrary to sound health planning principles. Specifically, if the occupancy standard cannot be waived, Sheppard Pratt's only option will be to construct shell space for the additional 8 beds in the new building and then, after the new building is complete and in use, apply for 8 waiver beds and initiate a new construction project to finish the shell space to accommodate those beds. This is a more costly way to establish the eight additional beds. It is also disruptive to patient care because it necessitates undertaking construction within an operating health care facility, a situation that can be avoided if the Commission has the discretion not to apply the occupancy standard.

Additionally, there is precedent in the State Health Plan for allowing an applicant to demonstrate why an occupancy standard should not apply. Specifically, the State Health Plan Chapter governing Nursing Home and Home Health Agency Services allows an applicant to show evidence why the occupancy standard to expand an existing nursing home or to construct a new nursing home should not apply to its project. COMAR 10.24.08.05B(2) and (3). Making such an allowance in the Psychiatric Services Chapter is equally appropriate.

This matter is of interest to AAMC for two reasons. First, as an acute care hospital with a busy emergency department that is often challenged to find available acute psychiatric beds to which to transfer arrivals in need of inpatient psychiatric care, AAMC supports eliminating unnecessary and inefficient impediments to the establishment of acute psychiatric bed capacity in the State for which need is demonstrated. Second, although AAMC does not currently operate acute psychiatric beds, it is in the process of preparing a CON application to establish an inpatient mental health unit so that this critical health care service is available within its community. While this standard is not applicable to the establishment of new acute psychiatric bed capacity, from the perspective of a potential applicant to expand its capacity in the future, AAMC believes that the State Health Plan should not foreclose the approval of an application based on the occupancy standard if the applicant is able to demonstrate why it should not apply.

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Thank you for your consideration of AAMC's comments.

Sincerely,



Marta D. Harting

MDH/rh

cc: Bonnie Katz, Vice President, Business Development and Support Operations,  
Sheppard Pratt Health System  
Thomas C. Dame, Esquire  
Paula S. Widerlite, Chief Strategy Officer, Anne Arundel Medical Center