

GALLAGHER

GALLAGHER EVELIUS & JONES
ATTORNEYS AT LAW

April 6, 2020

VIA EMAIL & U.S. MAIL

Mr. Ben Steffen
Executive Director
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Ruby Potter
Health Facilities Coordination Officer
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

**Re: Emergency Certificate of Need Application – Holy Cross Hospital –
Expansion of MSGA Bed Capacity**

Dear Mr. Steffen and Ms. Potter:

On behalf of Holy Cross Health Inc. (“Holy Cross Health”) and Holy Cross Hospital, pursuant to COMAR 10.24.01.20, we write to seek an Emergency Certificate of Need (“CON”) to expand the MSGA bed capacity by 84 new physical beds at Holy Cross Hospital located at 1500 Forest Glen Road, Silver Spring, Maryland 20910.

As you know, due to a world-wide outbreak of a coronavirus known as SARS-CoV-2 (“COVID-19”), the President of the United States has declared a national state of emergency, the Secretary of the United States Department of Health and Human Services has declared a public health emergency, and on March 5, 2020, the Governor of the State of Maryland, Lawrence J. Hogan, Jr., declared a state of emergency and catastrophic health emergency. Additionally, on March 16, 2020, the Governor issued an Executive Order directing the Maryland Department of Health to work with health care facilities and providers to reopen closed hospital facilities across the state and to take other measures necessary to immediately increase statewide hospital capacity. This requires immediate action pursuant to your authority under COMAR 10.24.01.20B and consistent with Governor Hogan’s Executive Order to increase inpatient hospital capacity to accommodate potential surge capacities related to COVID-19.

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I. Project Description

Holy Cross Health hereby applies for an Emergency CON for the purpose of expanding bed capacity at Holy Cross Hospital in preparation for an expected surge in hospital admissions related to COVID-19 infection and treatment. The proposed project would involve the addition of new capacity as well as the re-activation or conversion of existing physical capacity, for which a CON is not required.¹

The project would involve establishing 84 new MSGA beds in space on the 6th and 7th floors of the hospital to create additional acute care capacity of 42 MSGA beds on each floor. These spaces, comprising approximately 25,000 square feet on each floor, were previously used for acute care services, but were decommissioned. The work would begin immediately upon approval of this application, and is estimated to be completed by May 15, 2020.

II. Estimated Project Cost

The cost of the project will not exceed the hospital capital threshold requiring a CON from the Maryland Health Care Commission under MARYLAND CODE, HEALTH-GENERAL § 19-120(a)(4). The total project cost, including facilities work and purchase of equipment, is estimated to be approximately \$11.0 million, and Holy Cross Health intends to use available cash to fund the project.

Holy Cross Health also seeks a waiver from the Executive Director or designee pursuant to COMAR 10.24.01.10A(2) such that: (1) the requirement under COMAR 10.24.01.20C for the Emergency CON applicant to file a formal CON application be suspended until at least thirty (30) days after the declared state of emergency of March 5, 2020 is terminated; and (2) that any Emergency CON granted pursuant to this Emergency CON application not expire until thirty (30) days after the declared state of emergency of March 5, 2020 is terminated or 165 days after its issuance, whichever is later.

¹ In addition to the new bed capacity requested in this application, the project would also involve: (1) the activation of 62 physical beds on the 5th and 6th floors of the hospital; (2) the conversion of 28 post anesthesia care unit (PACU) spaces to be used as 28 MSGA beds; and (3) the conversion of 30 beds from medical / surgical beds to ICU beds. These changes can be made without a CON by seeking temporary adjustment of bed licensure through the Office of Health Care Quality.

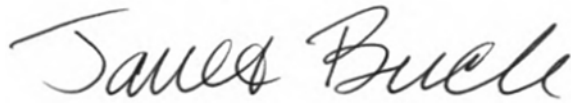
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We respectfully request you to act on this request as soon as possible so that Holy Cross Health can begin work on this critically important project. Please let us know if you need any additional information regarding the requested Emergency CON Application.

Sincerely,



Thomas C. Dame



James C. Buck



Mallory Regenbogen

Cc: via email

Robert R. Neall, Secretary, Maryland Department of Health
Dennis R. Schrader, Deputy Secretary for Health Care Financing & Chief Operating Officer
Andrew N. Pollak, M.D. Chairman, Maryland Health Care Commission
Katie Wunderlich, Executive Director, Maryland Health Services Cost Review Commission
Patricia T. (Tricia) Nay, M.D. Director, Office of Health Care Quality
Renee Webster, Assistant Director for Hospitals, Laboratories and Patient Safety, OHCQ
Paul Parker, Director, Center for Health Care Facilities Planning & Development
Kevin McDonald, Chief, Certificate of Need
Suellen Wideman, Esq., Assistant Attorney General
Travis Gayles, M.D., Ph.D., Montgomery County Health Officer
Norvell V. Coots, M.D., President and CEO, Holy Cross Health

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Anne Gillis, CFO, Holy Cross Health
Annice Cody, President, Holy Cross Health Network
Louis Damiano, M.D., President, Holy Cross Hospital
Kristin Feliciano, Chief Strategy Officer, Holy Cross Health