

# GALLAGHER

GALLAGHER EVELIUS & JONES  
ATTORNEYS AT LAW

March 21, 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 – UM Capital Region  
Health – Remote Location of UM Prince George’s Hospital Center**

Dear Mr. Steffen and Ms. Potter:

On behalf of Dimensions Health Corporation d/b/a University of Maryland Capital Region Health (“UM CRH”), a not-for-profit health system owned by the University of Maryland Health System (“UMMS”), and pursuant to COMAR 10.24.01.20, we write to seek an Emergency Certificate of Need (“CON”) to establish a temporary remote location of University of Maryland Prince George’s Hospital Center (“UM PGHC”) with 135 MSGA beds. The remote location of UM PGHC would be located at 7400 Van Dusen Road, Laurel, Maryland, where a former hospital known as University of Maryland Laurel Regional Hospital (“UM LRH”) operated until it converted to a freestanding medical facility (“FMF”) early last year. This location is currently an outpatient provider-based department of UM PGHC. Secretary Robert Neall of the Maryland Department of Health has requested that UMMS reopen inpatient beds at this facility and has pledged the State’s support to help cover costs and other support necessary for this project. *See* Exhibit 1.

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. COVID-19 presents immediate hazards to the health of patients statewide, and

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particularly in Prince George's County which currently has the second greatest number of COVID-19 confirmed cases. 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.

UM CRH hereby applies for an Emergency CON for the purpose of establishing a temporary remote location of UM PGHC with 135 MSGA beds located in the former UM LRH building in preparation for an expected surge in hospital admissions related to COVID-19 infection and treatment.<sup>1</sup> If approved and established, UM CRH would intend to operate the temporary remote location as a "provider-based" inpatient hospital department of UM PGHC only for so long as necessary, and authorized, to address the need for inpatient hospital services as a result of the COVID-19 pandemic, and in accordance with 42 C.F.R. § 413.65(a)(2).<sup>2</sup>

Upon the grant by the Maryland Health Care Commission of an exemption from CON review, UM LRH converted to an FMF known as University of Maryland Laurel Medical Center, effective January 1, 2019. The FMF currently operates on the first and second floor of the former hospital building,<sup>3</sup> and it includes the following services: emergency care, observation services, diagnostic imaging services, behavioral health outpatient services, two sterile operating rooms, two non-sterile procedure rooms, a laboratory, a pharmacy, and other ancillary services. These services would be available to patients of the proposed remote location of UM PGHC.

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<sup>1</sup> The last licensed bed count for UM LRH before it converted to an FMF was 45 MSGA beds and 10 inpatient psychiatric beds. Also, two special hospitals, a chronic care hospital (46 beds) and a rehabilitation hospital (28 beds) operated in the building, both of which relocated to UM PGHC.

<sup>2</sup> 42 C.F.R. § 413.65(a)(2) defines a "remote location" of hospital as "a facility or an organization that is either created by, or acquired by, a hospital that is a main provider for the purpose of furnishing inpatient hospital services under the name, ownership, and financial and administrative control of the main provider . . . . A remote location of a hospital comprises both the specific physical facility that serves as the site of services for which separate payment could be claimed under the Medicare or Medicaid program, and the personnel and equipment needed to deliver the services at that facility. The Medicare conditions of participation do not apply to a remote location of a hospital as an independent entity."

<sup>3</sup> The FMF will relocate to a newly constructed building on the same medical campus, which is expected to be completed in late 2021.

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The proposed project would result in the re-use of floors 3, 4, and 5 of the former hospital building for a total of 10 intensive care unit beds, 12 intermediate care unit beds, and 113 medical / surgical unit beds, in the configuration shown below:

<b>Floor/Unit</b>	<b>Bed Category</b>	<b>No. of Beds</b>
3A	Intensive Care	10
3B	Intermediate Care	6
3C	Intermediate Care	6
4B	Med/Surg	38
4C	Med/Surg	38
5B	Med/Surg	9
5C	Med/Surg	28

These floors have been vacant since the former hospital converted to an FMF last year.

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 \$7.0 million, and UM CRH intends to use available cash to fund the project. If the proposed project is approved, UM CRH will proceed expeditiously with preparations to open the remote location. UM CRH anticipates that the project could be completed in approximately four weeks.

UM CRH 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.

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

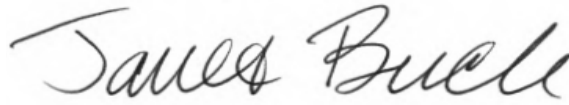
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Sincerely,



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Thomas C. Dame



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James C. Buck



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Mallory Regenbogen

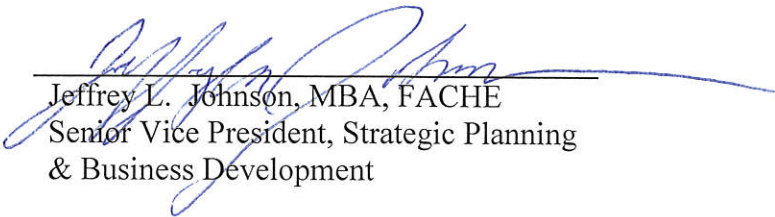
Cc: via email

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  
Randolph S. Sergent, Esq., Vice 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  
Ernest L. Carter, M.D., Ph.D. Prince George's County Health Officer  
Donna Jacobs, Senior VP, Government, Regulatory Affairs & Community Health, UMMS  
Kristin Jones-Bryce, Chief of Staff and Senior VP, UMMS  
Joseph L. Wright, MD, MPH, FAAP, Interim President & CEO, UM Capital Region Health  
Jeffrey Johnson, Senior VP Strategic Planning & Business Dev., UM Capital Region Health

I hereby declare and affirm under the penalties of perjury that the facts stated in this Emergency Certificate of Need Application and its attachments are true and correct to the best of my knowledge, information, and belief.

March 21, 2020

\_\_\_\_\_  
Date

  
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Jeffrey L. Johnson, MBA, FACHE  
Senior Vice President, Strategic Planning  
& Business Development

# **EXHIBIT 1**



## DEPARTMENT OF HEALTH

*Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary*

March 18, 2020

Dr. Mohan Suntha, MD, MBA  
President and CEO  
University of Maryland Medical Systems  
250 W. Pratt Street  
Baltimore, MD 21201

Dear Dr. Suntha:

The State of Maryland is committed to the most effective care for those affected by the 2019 Novel Coronavirus (“2019-nCoV”). We are asking University of Maryland Medical Systems to take the unprecedented step of reopening the recently closed Laurel Community Hospital.

To support you, State agencies including the Maryland Health Care Commission (MHCC) and the Office of Health Care Quality (OHCQ), and the Health Services Cost Review Commission (HSCRC) will immediately address any Certificate of Need (CON), licensure and regulatory barriers to service expansion.

The State will cover all necessary costs for hospitals to proceed with these actions. This includes mobilizing staffing needed to inspect, retrofit and prepare the space, obtaining beds, monitoring equipment, supplies and other items to bring these additional beds into service. Operating expenses for the duration of the emergency and wind-down costs will also be covered.

On behalf of the Governor and the citizens of Maryland, I want to thank you for your leadership during this extraordinary period. Should you have any questions, please contact Dennis Schrader at [dennis.schrader@maryland.gov](mailto:dennis.schrader@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "R. Neall", written over a faint, larger signature.

Robert R. Neall  
Secretary