

January 25, 2024

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

Ella Aiken, Esq.  
Alison Lutich, Esq.  
Gallagher Evelius & Jones Attorneys at Law  
218 North Charles Street, Suite 400  
Baltimore, MD 21201

Re: **Request for Exemption from Certificate of Need Review –  
Merger and Consolidation of University of Maryland  
Rehabilitation and Orthopaedic Institute and University of  
Maryland Medical Center  
Docket No. 23-24-EX017**

Dear Ms. Aiken and Ms. Lutich,

The Maryland Health Care Commission (MHCC or Commission) staff has reviewed the December 29, 2023, request of James Lawrence Kernan Hospital, Inc. d/b/a University of Maryland Rehabilitation and Orthopaedic Institute (UMROI) and University of Maryland Medical Center, LLC (UMMC) for an exemption from Certificate of Need (CON) review of the proposed merger and consolidation of acute inpatient rehabilitation and chronic care beds from UMROI to UMMC. Based on its review of the information contained in this request, staff has the following questions and requests for additional information or clarification:

**Background and Project**

1. MHCC approved a modification to the original Cancer Center project for the construction of a nine-story addition on the east side of the North Hospital on October 19, 2023 (Docket No. 19-24-2438). Please provide an update concerning UMMC's progress in completing the nine-story Greenebaum Comprehensive Cancer Center.
2. The applicants indicate in the project modification referenced above that UMMC will complete the construction phase for the new tower by January 2026.
  - a. On pg. 11 – Project Budget and Timetable: Please use a Gantt diagram or show visually the timeline for completion for Phase 1, Phase 2 (as specified in the Project Change approved October 2023), and completion of construction for the addition of four floors plus mechanical penthouse.

- b. Include in the timeline when UM ROI projects the 58 beds will be taken out of service at Kernan.
3. Please respond to the following:
  - a. Include a site diagram of UM ROI that identifies the current location of the 58 beds that will be relocated to UMMC and the future plan for that space.
  - b. Regarding the type of services offered, list the top 10 CPT codes served in the TBI, SCI, and chronic care beds at UMROI now, and projected after the beds are moved.
4. Please discuss the future plans and timeline for the remaining health care services provided at UM ROI.
5. With the following questions, please respond to the project's budget and financial capacities:
  - a. Please discuss whether UMMC and UM ROI will seek an adjustment to its global budget revenue (GBR) agreement and if so, what is the status of the negotiations with the Health Services Cost Review Commission?
  - b. Are the costs for closing these 58 beds included in UMMC's Project Budget, and if so, please identify these costs.
  - c. Please discuss the financial feasibility of the proposed relocation of 58 acute inpatient rehabilitation beds if HSCRC does not approve a rate increase as a result of this proposed exemption project.
6. Please provide a table illustrating the number of psych beds in UMMC North Tower before and after in Stoler Tower, floors 9, 10, and 11, after. Please also confirm the following project information:
  - a. The application inconsistently describes the loss of 26 "psychiatric beds" and "26 psychiatric rooms" on Floor 12 and 27 medicine beds on Floor 13 of the North Hospital. Please state where these beds will be relocated within UMMC (pg. 7 and 10).
  - b. Are relocation costs for these beds included in the Project Budget? If so, please indicate where.
7. The applicant states that UMMC will locate adult and geriatric psychiatric services adjacent to the existing child psychiatric unit, allowing for one full-locked floor. Provide more detail as to how UMMC will develop two distinct therapeutic areas for treatment. Will the applicants segregate the adult and geriatric program from the child program, and what provisions will be in place for the care and safety of these two distinct patient populations?



8. On pg. 15, the applicants state that UMROI cannot accept patients with unique needs such as chemotherapy to acute inpatient rehabilitation services. What other “unique need” patients are unable to utilize inpatient rehabilitation services and please quantify the number of those patients, including cancer patients that would benefit from the introduction of inpatient rehabilitation services at UMMS?
9. In the process of determining the relocation of UMROI to UMMC, please comment on the stakeholder considerations or support for the proposed project. How does the hospital plan to communicate with and involve the local community in the decision-making process and address concerns or feedback from residents? What are the community outreach plans to inform residents about the enhanced services available at the new rehab center?
10. What steps will be taken to minimize disruption for current patients and their families during the transition process? Will patients be transferred to UMMS or will UMMS just accept new patients?

***STATE HEALTH PLAN: Acute Care Hospital Services***

11. Please respond to the following:
  - a. COMAR 10.24.10, State Health Plan for Facilities and Services: Acute Care Hospital Services, specifically information regarding charges, and cost effectiveness.

***STATE HEALTH PLAN: Acute Inpatient Rehab Services***

**Quality of Care**

12. Please provide documentation illustrating that UMMC complies with Medicaid/Medicare standards (pg. 26).
13. Please provide documentation that UMROI is currently accredited with the Commission for Accreditation of Rehabilitation Facilities (CARF) or a recognized accreditation organization for TBI and SCI services.
14. Regarding subparagraph (b), as an existing acute inpatient rehabilitation service that seeks to relocate SCI and TBI services to a new location (UMMC), please respond to this standard with regard to whether UMROI meets all quality measures as required by federal regulations or State agencies.



15. Please cite the source for the information provided on pg. 27 in the last full paragraph that UMROI has high marks in patient quality and satisfaction in its treatment of the SCI and TBI patients.

### **Construction Costs**

16. On pg. 49, please provide the assumption or basis for the use of 40% cost adjustment included in the Cancer Center MVS analysis for the nine floors plus the mechanical penthouse.

### **Safety**

17. Please specify what guidelines are directing the design of the acute inpatient rehabilitation and chronic care bed units at UMMC (pg. 55-56) (i.e. AIA guidelines, use of FGI metrics, general contractor, other sources).

### **Financial Feasibility**

18. On pg. 58-59, the applicants state that “other acute care facilities within the UMMS system” may receive referrals “in the event UMMC lacks capacity for patients [who need to be admitted to the inpatient rehabilitation unit] but who exceed the unit’s level of care capabilities.” Please indicate which facilities these are.

### ***STATE HEALTH PLAN: Chronic Care***

### **Exhibit 1**

19. Regarding the impact of the proposed exemption on UM ROI, please submit Tables A (Physical Bed Capacity), F (Statistical Projections – Entire Facility), G (Revenue and Expenses – Entire Facility Uninflated), H (Revenue and Expenses – Entire Facility Inflated), and L (Workforce Information) that presents the historical, projected utilization during construction, and after project completion.
20. Regarding UMMC’s Table E Project Budget, please provide a description of the \$53.9 million in renovations that is involved for Floors 9 through 14 of the North Hospital, including the cost breakdown for the mechanical penthouse on the 14<sup>th</sup> floor. Are any of these costs included with the Cancer Center project. If yes, please explain.
21. Regarding UMMC’s Table E Project Budget, please respond to the following:



- a. The assumption or basis for the \$10.6 million in Contingency Allowance, \$14.9 million in Gross Interest during construction period, and \$10.7 million in Inflation Allowance.
  - b. What is included with the \$125,750 in CON application assistance fees and \$185,000 in non-CON legal fees?
  - c. What is included in the \$335,000 costs for third party peer review of documents, third party testing & scheduling, and curtain wall testing?
  - d. Provide detail on the \$1,963,600 entry in A.2.f. in the “Other” category.
  - e. Provide the terms for the \$148.8 million in authorized bonds, such as the life of the bonds, interest rate, terms for these bonds, and the financial institution that will issue these bonds.
  - f. Discuss the basis or financial instrument that will provide \$3.6 million in interest income from the bond proceeds.
  - g. Has UMMC received the identified \$55.0 million in funds from the State? If no, provide more detail on when this will be realized.
  - h. Discuss the contingency plans UMMC has in place to finance the project should there be a shortfall in any category of the sources of funds, including the interest income from authorized bond proceeds and the State funds.
22. Regarding UMMC’s Table L:
- a. Please show the number of FTEs and the total costs in salaries and benefits that will move from UM ROI to UMMC after project completion in FY 2027.
23. Regarding UMMC’s Tables G, H, J, and K, please clarify whether these tables represent Revenue and Expenses in millions (000) or as reported.

## **Exhibit 2**

24. Regarding Exhibit 2, the line diagram for the proposed adult and geriatric psychiatric unit on Floor 11 shows 22 patient rooms, but narrative states there will be 20 beds after project completion. Please reconcile and confirm whether the adult & geriatric psychiatric unit will have 22- or 20-beds after project completion.

Please submit four copies of the responses to the above questions and the requests for additional information within ten working days of receipt. Also submit the response electronically, in both Word and PDF format, to Ruby Potter ([ruby.potter@maryland.gov](mailto:ruby.potter@maryland.gov)) and to [mhcc.confilings@maryland.gov](mailto:mhcc.confilings@maryland.gov). If additional time is needed to prepare a response, please let me know at your earliest convenience.

As with the request itself, all information supplementing the request must be signed by person(s) available for cross-examination on the facts set forth in the supplementary information, who shall sign a statement as follows: “I hereby declare and affirm under the penalties of perjury



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that the facts stated in this application and its attachments are true and correct to the best of my knowledge, information, and belief.”

If you have any questions regarding this letter, you may contact me either by phone at (410) 764-3371 (or [jeanne-marie.gawel@maryland.gov](mailto:jeanne-marie.gawel@maryland.gov)).

Sincerely,



Jeanne -Marie Gawel  
Acting Chief, Certificate of Need

cc; Jerry Schmith, Principal Deputy Director, Hospital Rate Revenue and Regulations, HSCRC  
Bob Gallion, Associate Director, Revenue and Regulation Compliance, HSCRC  
Allan Pack, Principal Deputy Director, Quality and Population-Based Methodologies, HSCRC  
Stan Lustman, Assistant Attorney General, HSCRC  
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