

February 12, 2024

VIA EMAIL

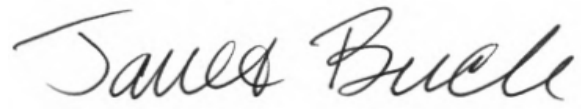
Ms. Ruby Potter
ruby.potter@maryland.gov
Health Facilities Coordination Officer
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Re: **Responses to Additional Information Requests Dated January 23, 2024 -**
Merger and Consolidation of UM Upper Chesapeake Medical Center and UM
Harford Memorial Hospital Exemption from CON Review – Docket Number 17-
12-EX003

Dear Ms. Potter:

On behalf of joint applicants University of Maryland Upper Chesapeake Medical Center and University of Maryland Harford Memorial Hospital, enclosed please find responses to additional information requests dated January 23, 2024 regarding the Request for Post-Approval Project Change submitted on December 22, 2023.

Please let us know if we can be of further assistance. Thank you,



James Buck
Alison B. Lutich
Gallagher Evelius & Jones LLP
218 North Charles Street
Suite 400
Baltimore, MD 21201
410.727.7702
jbuck@gejlaw.com
Counsel for Joint Applicants

Enclosures

GALLAGHER

GALLAGHER EVELIUS & JONES
ATTORNEYS AT LAW

February 12, 2024

Page 2

cc: Ben Steffen, Executive Director
Wynee Hawk, Director, Center for Health Care Facilities Planning & Development
Jeanne Marie Gawel, Chief, Certificate of Need Program
Alexa Bertinelli, Esquire, Assistant Attorney General
Caitlin E. Tepe, Esquire, Assistant Attorney General
Marcy Austin, Harford County Health Officer
Marco Priolo, Vice President of Finance/Chief Financial Officer, UM Upper Chesapeake Health
Mark Shaver, SVP Strategy, Physician Services & Business Development at UM Upper Chesapeake Health

**UNIVERSITY OF MARYLAND UPPER CHESAPEAKE MEDICAL CENTER, INC. AND
UNIVERSITY OF MARYLAND HARFORD MEMORIAL HOSPITAL, INC.
MERGER AND CONSOLIDATION REQUEST FOR POST-APPROVAL PROJECT CHANGE
Docket No. 17-12-EX003
Responses to Requests for Additional Information Dated January 23, 2024**

- 1. Maryland’s state of emergency ended in July 2021, and the suspension of filing quarterly status reports for approved-but-not-completed projects were resumed on September 15, 2021, and every three months thereafter until the project was complete. Between September 2021 to December 2023, UCMC and HMH failed to submit any quarterly reports. Additionally, UCMC and HMH failed to timely seek approval for the project changes at issue in this request. You have broadly stated this was due to COVID and changes in staff. Please provide a more comprehensive explanation for non-compliance with these requirements.**

Applicants’ Response:

The Commission granted an Exemption from Certificate of Need Review on April 16, 2020, authorizing UCMC to construct a 78,870 square foot three-story bed tower (26,290 square feet per floor) above the existing two-story UM Kaufman Cancer Center to house 30 MSGA beds on the fifth floor, a 42-bed observation unit on the fourth floor, and shell space on the third floor. Further, the project included 21,250 square feet of renovations at the existing main hospital to expand support, food services, environmental services, IT, and a Fire Command Center for a high-rise building. The approved project is part of an overall reconfiguration of beds and services within the University of Maryland Upper Chesapeake Health System (“UCH”), which also includes the development of UC Behavioral Health Pavilion, a special psychiatric hospital in Aberdeen, Maryland and the conversion of HMH to a freestanding medical facility (“UC FMF”) to be located below UC Behavioral Health in Aberdeen, projects for which the Commission granted a Certificate of Need and exemption from CON review, respectively, on April 16, 2020.

All three projects commenced in earnest soon after the Commission’s approvals. At that time and due to the state of emergency associated with COVID-19, any project status reports were suspended pursuant to the Commission’s guidance dated April 13, 2020. Like many other entities with projects that received Commission approval shortly before or during the declared state of emergency, UCMC and HMH did not recognize the need to commence filing project status reports as of September 2021.¹ Following the termination of the state of emergency, senior executives also remained focused on dealing with the aftermath of COVID-19, including staffing shortages and inflationary pressures. Finally, the UM UCH employee largely responsible for managing the three approved projects from their initial filing in August 2017 through approval on April 16, 2020, was reassigned within the UMMS system and no longer had responsibility for UM UCH by September 2021.

¹ Notably, the Commission’s regulations did not require that holders of an exemption from CON review comply with performance requirements or to complete quarterly project status reports until December 1, 2023. *Compare* COMAR 10.24.01.12 (2020) *with* COMAR 12.24.01.12 (effective December 1, 2023).

UCMC and HMH admittedly failed to recognize the need to seek Commission approval prior to incurring capital expenditures above the amount approved by the Commission. In authorizing the expenditures, members of UCH’s executive staff and Board of Directors viewed the three projects collectively. In that regard, the approximately \$17 million cost overrun at the UCMC project was offset by an approximate \$17 million in cost savings at the two projects in Aberdeen.

2. **The total approved budget for movable equipment was \$2,520,000, and the cost incurred was \$7,788,688. Please explain this variance.**

Applicants’ Response:

The increase in movable equipment above the approved capital budget was largely driven by two factors. First, a steep rise in inflation following COVID-19 and a shortage of temporary equipment drove cost increases. Second, during the project a subcontractor selected to perform work on mechanical systems failed to perform. This resulted in the need to purchase and install temporary electrical panels, wiring, and generators, and establish temporary heating, ventilation, and air conditioning using equipment that was movable and removed upon final installation of these systems.

Continuing with the numbering from the Request for Post-Approval Project Change, **Table 2** below sets forth UCMC’s approximate movable equipment costs:


Table 2 – Movable Equipment Cost

Description	Amount
Information technology, including computers, switches, scanners, printers, portable workstations, I-pads, monitors	\$2,598,566
Monitoring equipment	\$564,000
Patient room furnishing	\$1,078,000
Temporary electrical panel and wiring and generators	\$1,125,000
Temporary HVAC	\$1,400,000
Pharmacy Dispensers	\$400,000
Miscellaneous, including temporary medical vacuum & medical air, temporary water pressure system, temporary circulation pumps and piping, and pressure reducing system	\$623,122

The allocation of movable equipment costs is supported by the affirmation of the project manager for UM UCH, UCMC’s and HMH’s parent organization.

I hereby declare and affirm under the penalties of perjury that the facts stated in
HMH's and UCMC's Responses to the Commission Staff's Additional Information
Requests dated January 23, 2024 are true and correct to the best of my knowledge,
information, and belief.

2/12/23
Date


Phillip D. Crocker
Project Manager
University of Maryland Upper
Chesapeake Health System