

IN THE MATTER OF
HOPE HEALTH SYSTEMS APPLICATION

Docket No. 20-03-2444

* BEFORE THE
* MARYLAND HEALTH
* CARE COMMISSION
*

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**SHEPPARD PRATT HEALTH SYSTEM’S EXCEPTIONS
TO THE REVIEWER’S RECOMMENDED DECISION ON
HOPE HEALTH SYSTEMS’ MODIFIED CON APPLICATION
PROPOSING TO ESTABLISH A SPECIAL PSYCHIATRIC HOSPITAL
FOR CHILDREN AND ADOLESCENTS**

Sheppard Pratt Health System, Inc. (“Sheppard Pratt”), by its undersigned counsel and pursuant to COMAR § 10.24.01.09B, submits these Exceptions to the Reviewer’s March 30, 2022 Recommended Decision in the review of the modified Certificate of Need (“CON”) application and related materials (together, the “Application”) filed by Hope Health Systems, Inc. (“Hope Health”).

Sheppard Pratt supports the Reviewer’s recommendation that the Maryland Health Care Commission (the “Commission”) deny the Application based on Hope Health’s failure to demonstrate that its proposed project is viable or that it is the most cost-effective alternative for providing additional psychiatric hospital bed capacity for children and adolescents. Sheppard Pratt files these exceptions to the Recommended Decision because, as set forth in its submissions throughout this review, it is concerned that Hope Health failed to satisfy additional standards and review criteria.

Sheppard Pratt is sensitive to the needs of Marylanders for mental health treatment options for children and adolescents. Sheppard Pratt is also sensitive to the existence of access barriers to healthcare experienced by minority and low income populations. Hope Health’s

stated goal – to improve access barriers and provide services to an underserved community – is laudable. Given this goal, Hope Health understandably obtained significant community support for its proposed project. Like the Reviewer, Sheppard Pratt would welcome an application that sought to increase these services, provided that the applicant demonstrates that the proposed hospital can be operated on a viable basis, with appropriate staffing and safety measures, and is capable of serving the spectrum of needs for this population.

However, Sheppard Pratt remains concerned that the project, as proposed, does not meet the regulatory standards and review criteria, which appropriately exist as a gatekeeper to ensure that healthcare services and facilities are only established in a manner that the State and this Commission have determined will best serve the needs of Maryland residents. In addition to the viability and cost effectiveness review criteria, Sheppard Pratt maintains that that Hope Health did not satisfy the Need and Impact standards, and that serious safety issues remain unaddressed. As always, the CON Applicant bears the burden to demonstrate compliance with the State Health Plan and the Commission’s review criteria. COMAR § 10.24.01.08G(1). Hope Health has failed to do so. Sheppard Pratt incorporates its Interested Party Comments, DI# 22, 30, and 47 by reference as if set forth in full, and further highlights the following concerns.

Need, COMAR § 10.24.01.08G(3)(b).

An applicant must demonstrate not only need for a proposed project, but also that its proposed project meets that need. COMAR § 10.24.01.08G(3)(b). Hope Health did not do this. While the Recommended Decision finds that a general need for these services exists in Maryland, there was no evidence from which the Decision could conclude Hope Health’s proposed 16-bed project in Maryland’s saturated Central Region will meet the needs of the population Hope Health proposes to serve.

Hope Health proposes a 16-bed hospital in Maryland's Central Region, where the majority of beds for its proposed services are already located. Recommended Decision, 5. Rather than servicing a significant unmet need, Hope Health proposes drawing 85% of its patients from existing providers. Recommended Decision, Appx. 5. But Hope Health did not demonstrate its ability to siphon such a significant percentage of its patients from existing providers. With the exception of MedStar Franklin Square, every provider of acute psychiatric services in the proposed service area provides all of the services - Hope Health currently provides, contradicting Hope Health's assertion that it will be uniquely positioned to serve patients in the region based on the breadth of its existing services. As recognized in the Recommended Decision, Hope Health's need projections further ignored the then-forthcoming University of Maryland Medical Center's 16-bed child and adolescent unit and Sheppard Pratt's new ElkrIDGE facility, both of which significantly expand the capacity of established providers in the Central Region beyond the capacity Hope Health considered in its application. Recommended Decision, 21. The evidence in this review simply did not demonstrate that Hope Health will be able to disrupt long established referral patterns within the Central Region, or that such disruption is needed.

Impact, COMAR § 10.24.01.08G(3)(f).

Hope Health failed to comply with the requirements of the impact standard, projecting its impact only in terms of volume shift from other providers, and not the impact it will have on the costs and charges of other providers, or on costs to the health care delivery system. COMAR § 10.24.01.08G(3)(f). The Recommended Decision similarly summarily concludes that Hope Health's project will not impact existing providers, but does not substantiate this conclusion with any analysis. The Recommended Decision also appears to improperly shift the burden of the

impact standard to the Interested Party by summarily concluding “I cannot find that the interested party clearly demonstrated such an impact.” Recommended Decision, 39. While Sheppard Pratt did do this, it was not its burden to demonstrate impact – it was Hope Health’s. COMAR § 10.24.01.08G(3)(f). Hope Health plainly did not do so – its analysis touched on volume only, without any assessment of its impact on cost and charges of other providers. DI#4, pp. 71-72. The Recommended Decision fails to make any findings considering the only evidence that was submitted on this topic, by Sheppard Pratt. Recommended Decision, 37-38.

The Impact standard provides that a CON applicant must “provide information and analysis with respect to the impact of the proposed project on existing health care providers in the health planning region, including the impact on geographic and demographic access to services, on occupancy, *on costs and charges of other providers, and on costs to the health care delivery system.*” COMAR § 10.24.01.08G(3)(f) (emphasis added).

The Recommended Decision recognizes that Hope Health anticipates shifting a total of 169 cases from Sheppard Pratt in its first year of operation. Recommended Decision, 37 (citing DI #4, pp. 71-72); *see also* Recommended Decision, Appx. 5. Hope Health fails to demonstrate, and the Recommended Decision fails to consider, the financial impact of that volume shift. *Id.* Sheppard Pratt demonstrated that due to increasing costs of treating this patient population, especially those with higher severity needs, such as those with neuropsychiatric or autism spectrum disorders, it operates at an annual loss. DI#4, p. 21. Sheppard Pratt demonstrated that if Hope Health succeeded in shifting 10% of Sheppard Pratt’s child and adolescent volume, as Hope Health projects doing in its first year of operation, Sheppard Pratt will suffer an estimated *minimum* loss of \$4.1 million in revenue and \$770,000 in profit for this patient population, which Sheppard Pratt uses to offset losses from complex cases and other patient populations that

Hope Health could not treat. *Id.* These projections are based on a 10% reduction of Sheppard Pratt’s patient revenue and profit margin for its child and adolescent patient population.”¹ *Id.*

Sheppard Pratt also demonstrated that Hope Health will have a direct negative impact on Maryland’s total cost of care because it anticipates treating patients at a higher rate than Maryland’s existing specialty psychiatric hospitals, as demonstrated in the following table submitted in this review:

**Financial Impact of Sheppard Pratt and
Brook Lane Volume Shift on Total Cost of Care**

	Patient Per- Day Rate	HHS Projected Shift	Patient Days @ ALOS 9.2	Total Charges at Source Hosp.	Total Charges at HHS	Increased Cost to Healthcare System
Hope Health	\$1,658		9.2			
Sheppard Pratt	\$1,288	136	1251.2	\$ 1,611,492	\$ 2,074,940	\$ 463,448
Brook Lane	\$1,163	33	303.6	\$ 353,133	\$ 503,478	\$ 150,345
Total		169	1554.8	\$ 1,964,624	\$ 2,578,418	\$ 613,794

DI# 4, p. 22, Table 5

Despite the only evidence in the record as to the financial impact Hope Health’s project will have on existing providers and the health care delivery system, the Recommended Decision undertakes no analysis and credits the wholly unsupported assertions of Hope Health in finding that the project will have no adverse impact. Recommended Decision, 39-40. The record in this review lacks any evidence that would support this conclusion.

¹ Sheppard Pratt further demonstrated the true loss is likely to be even more significant because Hope Health’s staffing plan, costs, and estimated ALOS all indicate that it will not be able to support higher severity patients requiring admission to a specialty unit. Sheppard Pratt demonstrated that it treats these patients at a significant loss per patient, while lower severity patients average positive net revenue for Sheppard Pratt. In the first three quarters of FY 2020, Sheppard Pratt’s average cost per for patients in its neuropsych unit was \$1,371, compared to a range of \$732 to \$876 for its general adolescent patients. If Hope Health successfully shifts 10% of Sheppard Pratt’s patients, all from the lower severity patient population the financial impact on Sheppard Pratt will be far more significant. *Id.*

Patient Safety and Quality Issues

The applicable State Health Plan Chapter in effect at the time of Hope Health's application was significantly outdated and did not directly address consideration of or compliance with modern standards for inpatient psychiatric units. At a minimum, such considerations are relevant to whether Hope Health demonstrated that its proposed project meets the needs of the population it proposes to serve, viability of the project, and the costs its failure would impose on the healthcare delivery system, COMAR § 10.24.01.08G(3)(b)-(d).

Hope Health plans to renovate existing commercial office space to create an inpatient unit within a portion of a commercial office building. Hope Health provided a "Demolition Floor Plan" showing the current configuration of the building space that will be renovated to create the 16-bed unit and a "Proposed Floor Plan Layout-Revised" that shows the proposed single-loaded corridor of patient rooms with nursing station and other unit support and ancillary space across the hall from the patient rooms. Recommended Decision, Appx. 2. No plot plan of the campus or other drawings identifying an ambulance bay, commercial kitchen, gym, or "other larger building" that Hope Health purports will be present were provided. *Id.*, 23. Hope Health provided little depth in its description of direct renovation costs to account for the significant modifications needed to address the needs of its proposed patient population. While it contains many the features one would expect to see in an inpatient unit, the facility is not organized in a meaningful way to assure patient safety, security, and separation of patient populations.

Sheppard Pratt takes exception to the Recommended Decision because it fails to consider whether Hope Health has planned or budgeted for a safe, durable environment, including the following considerations that Sheppard Pratt raised in its Interested Party Comments.

- **Psychiatric patient safety.** The application lacks description of design and construction features to account for significant safety-risk psychiatric patients pose to themselves and others such as anti-ligature, tamper-resistant, and vandal resistant features, including hardware, fasteners, fixtures, and furnishings based on the level of supervision in each area, and appropriately reinforced walls and shatter proof glass.
- **Security.** Hope Health references security but includes no space in the floor plan for a security office or monitoring. Hope Health similarly includes a brief notation on “upgraded security doors,” but there is no sally port or way of preventing elopement. The location in a commercial space also raises serious questions about the safety of others and the risk to patients if a patient elopes from the unit.
- **Separation of patient population.** Hope Health states that its child population will be separated from its adolescent population, but its floor plan raises serious concerns that this is not possible. The child bedrooms are at the end of a floor, and require passage through a hallway with adolescent rooms for all activities – the dining room, social spaces, entrance and admission space, and multipurpose space all share a common hallway with adolescent patient rooms.
- **Entrance and Admissions.** Hope Health includes only a small seating area at the entrance. Patients require evaluation in a separate space at the time of admission and completion of a history and physical soon after.
- **Access to Unit.** The plans do not include a secure area where patients in the admission process, visitors, and contractors can be searched and provided a safe space to secure any and all belongings that could be weaponized or cause any patient safety issues. There is no planned space for family visitation.
- **Nursing Stations, Crash Carts.** There are three nursing stations, only two of which have a line of sight to patient rooms. Staffing plans call for only two nurses a shift, raising questions as to whether any nurse will be able to be present at a nursing station for any considerable period of time. Crash carts appear to be stored in alcove areas rather than in a secure area.
- **Seclusion rooms.** The space includes only one seclusion room, which is inadequate for the proposed 16-bed facility and patient population.
- **Outdoor space.** Hope Health does not appear to plan for any outdoor space.

Id., Appx. 2; *see also* DI# 22, p. 23.

In response to each of these concerns, Hope Health provided the conclusory response that “the facility will be designed to meet the State and federal requirements and shall ensure high quality care and safety for its patient population;” and has “been designed to meet the unique needs of the adolescent and child patient population and in keeping with the FGI Design

Standards and Guidelines.” DI#27, 14-17. Hope Health further stated that “the plans are also in the schematic design phase and may be slightly updated to improve patient processes.” *Id.* Prior applicants for psychiatric services have provided far more information concerning the specific safety and security features of their proposed facilities. *See In re University of Maryland Medical Center*, Dkt. No. 18-24-2429, Application at 5; *In re Anne Arundel Medical Center Mental Health Hospital*, Dkt. No. 16-02-2375, Application at 18-20; *In re Sheppard Pratt at Elkridge*, Dkt. No. 15-152367, Application at 8-9.² Given Hope Health’s lack of experience operating a psychiatric hospital, and the significant needs of its proposed patient population, the Commission should not approve a project on the basis of construction and design specifications and plans that do not demonstrate sufficient safety features based simply on the applicant’s generalized assertions and promise to “slightly update” its plans in the future.

Conclusion

For the reasons stated above and in Sheppard Pratt’s interested party comments filed in this review, Sheppard Pratt respectfully requests that the Commission deny Hope Health’s Application.

² Available at https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/hcfs_con_completed.aspx.

Respectfully submitted,



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April 6, 2022

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of April, 2022, a copy of Sheppard Pratt Health System, Inc.'s Exceptions to the Recommended Decision on Hope Health System, Inc.'s Modified CON Application Proposing the Establishment of a Freestanding Inpatient Psychiatric Hospital for Children and Adolescents was sent via email and first-class mail to:

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