

STATE OF MARYLAND



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**MARYLAND HEALTH CARE COMMISSION**

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215  
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June 26, 2020

**Via E-mail only**

Scott Tinsley-Hall  
Director  
Strategy & System Market Intelligence  
University of Maryland Medical Center  
110 S. Paca Street  
Baltimore, MD 21201

**Re: University of Maryland Midtown SurgiCenter,  
LLC  
Establishment of Ambulatory Surgery Facility at  
University of Maryland Medical Center  
Midtown Campus  
Matter # 20-24-2442**

Dear Mr. Tinsley-Hall:

Staff of the Maryland Health Care Commission (“MHCC”) has reviewed the University of Maryland Midtown SurgiCenter, LLC, Certificate of Need application for the establishment of a new ambulatory surgical facility in shell space located on the first floor of a newly constructed ambulatory care building located on the University of Maryland Medical Center Midtown Campus. Staff has a number of questions that need to be answered in order to find the application complete. Please respond to the following request for additional information.

**Part I – Project Identification and General Information**

1. Exhibit 5 indicates the first floor will have about 19,000 gross square feet (GSF). The applicant states on p. 6 and in Exhibit 1, Table A that the proposed ASC will be 13,268 GSF. Besides the lobby, please provide a description of what else will be located on the first floor of the UM Midtown Ambulatory Care Building.

2. Please list the top ten surgical procedures by surgical specialty that will be performed by general surgeons, otolaryngology, ophthalmology, and orthopedic surgeons with the opening of UM Midtown SurgiCenter by June 2022. In addition, please provide a list of the top procedures that will be performed in the two procedure rooms at UM Midtown SurgiCenter.
3. Regarding Exhibit 7, please provide a description and list the zip codes and geographic location included in the projected primary and secondary service area for UM Midtown SurgiCenter.
4. Regarding the construction of the UM Midtown Ambulatory Care Building, what is the timetable for completion of construction and the start of services in this building.
5. Regarding the ASC's lease with Maryland General Hospital, Inc., please provide the terms for this lease such as length of agreement, interest rate, monthly payment, and any other details.

#### **Part II – Project Budget**

6. Please provide the assumption or basis for the \$358,488 in Inflation Allowance.
7. Regarding the Source of Funds, please respond to the following:
  - a. State the dollar amount that UMMS and the University of Maryland Faculty Physicians, Inc. will provide for the proposed UM Midtown SurgiCenter.
  - b. Regarding the audited financial statements in Exhibit 17 and Exhibit 18, cite the source for the amount of cash for the proposed project. Are these board-designated funds or funds that have been specifically set-aside for financing the construction of the proposed ASC.

#### **Part IV – Consistency with General Review Criteria**

##### **Information Regarding Charges**

8. Please confirm that UM Midtown SurgiCenter will post on its website information concerning charges for the full range of surgical services provided in the proposed ASC.

##### **Charity Care Policy**

9. Please respond to the following:
  - a. Provide a legible copy of Exhibit 9, the charity care policy notice published in newspapers.
  - b. Will the applicant post a notice of charity care in the registration area of UM Midtown SurgiCenter?

- c. Staff calculates the charity care percentage for FY 2023 through FY 2025 is around 0.51%, which is lower than the charity care percentages reported in Table 2 on p. 23. Will UM Midtown provide the level of charity care reported in Table 2, or the lower amount calculated by Commission staff.

**Need-Minimum Utilization for Establishment of a New or Replacement Facility**

10. Please provide an explanation for the 3.0% decrease in surgical cases performed at UMMC Downtown (Table 4) and the 2.3% decrease at UMMC Midtown (Table 5) between FY 2017 to FY 2018.
11. Please provide details or information to support the applicant's contention that "the departed surgeons' case volumes will be replaced by existing or newly recruited surgeons, and that these case volumes will transition to the ASF." (p. 35). This information should be consistent with the information provided on Table 6 (p. 36).

**Construction Costs**

12. Since the applicant seeks to construct a new ambulatory surgery center in the newly constructed shell space located on the first floor of the UM Midtown Ambulatory Care Building, this standard is applicable and the applicant should submit an MVS analysis for UM Midtown SurgiCenter. This project is similar to projects submitted by Green Spring Station Surgery Center (DN# 15-03-2369), Children's Hospital Ambulatory Surgery Center (DN #18-16-2390), and Atlantic General Surgical Center (DN #18-23-2431) where each proposed fitting-out shell space to establish and fit-out an ambulatory surgery center in a newly constructed medical office building. Staff suggests the applicant review these MVS analysis for the construction of a good quality Class A ambulatory surgery center in shell space located in a newly constructed medical office building.

**Impact**

13. The Commission's latest version of the Annual Report on Selected Maryland General and Special Hospital Services FY 2018 (located at [https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_hospital/documents/acute\\_care/chcf\\_Annual\\_Rpt\\_Hosp\\_Services\\_FY2018.pdf](https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_hospital/documents/acute_care/chcf_Annual_Rpt_Hosp_Services_FY2018.pdf)) indicates UMMC Downtown has 22 mixed-use general-purpose and 13 mixed-use special purpose ORs. Please confirm which is correct – i.e., the numbers reported in the latest annual report or the information provided on p. 46 of your CON application that UMMC Downtown has 23 mixed-use general purpose and 12 special purpose ORs.
14. Regarding your comments on p. 49, the applicant states an annual increase of about 0.61% in Total Minutes from FY 2020 to FY 2025 at UMMC Downtown and UM Midtown. Please explain the assumptions used to project the utilization that takes into account the impact of COVID 19 on "elective" surgery.

15. On p. 49, you indicate that “the impact of Pandemic on surgical demand is likely to continue for at least the next 18-24 months, but potentially longer depending on how long the Pandemic and restrictions on performance of elective cases last.” How does a flat 0.61% annual growth rate take into account “the impact of the Pandemic on the surgical demand” on your projected utilization in Table 13 (p. 49) and Table 16 (p. 51) for FY 2021 through FY 2025.
16. Regarding the information on p. 54, the applicant indicates it will relinquish the two additional shelled ORs and reduce the total licensed OR capacity at UMMC Midtown to eight ORs. Please provide further details on the future purpose or use for the shell space for these two additional ORs.
17. Please address the following;
  - a. Regarding Table 12 (p. 48), please list the top ten surgical procedures by specialty that UMMC Downtown will move to UMMC Midtown (173,590 minutes) and to UM Midtown SurgiCenter (465,210 minutes).
  - b. Regarding Table 16 (p.51), please list the top ten surgical procedures by specialty that UMMC Midtown will move to UM Midtown SurgiCenter (278,250 minutes).
  - c. Regarding Table 16 (p. 51), UMMC Midtown campus shows that the calculated need for FY 2025 at optimal capacity will be barely 7.1 out of 8 ORs. As a result of your comments on p. 54 regarding “the impact of the Pandemic on the surgical demand,” please document or provide the assumptions used to support the need to complete and place in service the eighth OR at the Midtown hospital.
18. Regarding Table 17 (p. 52-53), please provide more details on the type of tertiary surgical procedures that will be performed at UMMC Downtown, and how these surgical procedures “need extended OR times of eight or more hours per case, multi-specialty collaboration, and research trials.” (p. 53).

## **Need**

19. Please provide a short summary of the demographics for the population, i.e., size of population served, age, socioeconomic details, and any other characteristics, served by the surgical services programs provided at UMMC Downtown, UMMC Midtown, and UM Midtown SurgiCenter.
20. Please provide quantitative data or evidence to support your statement on p. 8 that 23 mixed-use, general purpose ORs at UMMC Downtown “are overutilized” and “the lack of available OR time for inpatient surgical cases that compete with outpatient surgical cases for the same time in the same OR space.” What are the days and hours when these 23 ORs are in service and how late are patients and staff in recovery post-surgery; any

evidence such as trends in the historical volumes of inpatient and outpatient surgical volumes, and/or increase or decrease in average length of time for inpatient or outpatient surgical procedures performed; the frequency of OR scheduling conflicts for inpatient and/or outpatient surgical procedures; and implications related “to rolling over inpatient surgical cases to next day or resulting in increased lengths of stay.”

**Availability of More Cost Effective Alternatives**

21. As stated on p. 59, please respond to the following:

- a. Provide details on the type of service the University of Maryland ExpressCare provides;
- b. How frequently does the lack of OR availability at UMMC Downtown result in regularly turning away or delaying patient transfers from other physicians or facilities?
- c. What is the implication of these delays for the patient and surgeon? and
- d. What is the distance or drive time of transferring patients from point of origin (i.e., either the physicians or facilities) to UMMC Downtown campus for surgical services?

**Viability of the Proposal**

22. The payer mix stated in your CON application on p. 8 of 32.1% Medicare, 24.9% Medicaid, 38.5% commercial plans, and 4.5% other payers does not agree with the payer mix reported in MHCC Table 4, p. 68. Please provide the basis for the payer mix on p. 8 and clarify the discrepancy on p. 8 with the payer mix reported on your Revenue and Expense Statement for the Proposed Project.

23. As previously discussed under State Health Plan Standard .05B(9), Impact, the applicant states the COVID 19 Pandemic will have an impact on “elective” surgical procedures. Please discuss how the applicant takes into account the impact of the pandemic on the financial viability of the proposed ASC? What assumptions does UMMS make that the pandemic will not have a long-term impact on the financial viability for the proposed ASC?

24. Regarding Table L, please clarify whether the total cost of hiring 38.5 FTEs is \$2.9 million, as indicated under “Projected Changes as a result of the Proposed Project” (column 7), or \$2.3 million as indicated under “Projected Entire Facility through the Last Year of Projection” (column 12).

25. Please clarify whether the 38.5 FTEs will be new hires, and/or from surgical staff located at either UMMC Downtown and/or UM Midtown Campuses. Will this project provide any efficiencies in staffing or costs for personnel?

Please submit four copies of the responses to completeness questions and the additional information requested in this letter within ten working days of receipt. Also submit the response electronically, in both Word and PDF format, to Ruby Potter (ruby.potter@maryland.gov). Given the number of questions posed, as well as the time required for staff to compile these questions, we will certainly grant an extension to the ten day target specified in regulation as soon as you would request it.

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

Should you have any questions regarding this matter, feel free to contact me at (410)764-3374 or bill.chan@maryland.gov.

Sincerely,

A handwritten signature in black ink that reads "William Chan" on the top line and "for Bill Chan" on the bottom line.

William Chan  
Program Manager and Certificate of Need Analyst

cc: Dana Farrakhan, University of Maryland Medical Center  
William E. Tucker, Faculty Physicians, Inc.  
Thomas C. Dame, Esq., Gallagher, Evelius & Jones, LLP  
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