

MARYLAND HEALTH CARE COMMISSION

Modified Certificate of Need

TO: Andrew Nicklas
Director, Government Relations,
and Deputy General Counsel
Adventist HealthCare
820 West Diamond Avenue
Gaithersburg, MD 20878

May 18, 2023
Date

RE: Adventist HealthCare Shady Grove Medical Center
Construct a Patient Tower and Renovate Existing Facilities

20-15-2443
Docket No.

PROJECT DESCRIPTION

On April 15, 2021, the Maryland Health Care Commission (Commission) approved a Certificate of Need (CON) for Adventist HealthCare Shady Grove Medical Center (SGMC) to complete a major expansion and renovation of its facility at 9901 Medical Center Drive, in Rockville, Montgomery County. SGMC is part of Adventist Health Care, Inc. (AHC), a faith-based, not for profit health system that is based in Montgomery County.

As approved: The Commission granted SGMC a CON in April 2021 to add a six-floor patient care tower with 150,352 square-feet (SF) of inpatient service space, and renovation of 25,696 SF of existing hospital building space. SGMC's proposed project did not add beds or introduce new facilities or services, but to expand and modernize the existing facilities and services. As originally approved, SGMC proposed to complete the project in two phases scheduled over 66 months, with a projected completion date in August 2026, at a total project cost estimated at just over \$180,011,359, with AHC providing the source of funds using cash, philanthropic donations, and tax-exempt municipal bonds.

As modified: The design of the project has not changed, however, the total project cost has increased by approximately \$67.7 million. The project changes now require three separate construction contracts: The first contract will address the construction of the core and shell space for the proposed patient tower and CUP upgrades; the second contract is for the patient tower's interior fit out; and the third contract will complete renovations to the existing hospital, with the completion date extended by one year to September 2027.

SGMC will continue to fund the proposed project with \$16.0 million in philanthropic donations and \$154.0 million in tax-exempt bonds at levels consistent with the originally approved CON. The applicant will fund the approximately \$67.7 million project increase with cash, allocated by AHC. SGMC filed a partial rate application request with the Health Services Cost Review Commission (HSCRC), and they found that SGMC's proposed project change is

financially viable and awarded approximately \$9.2 million to Shady Grove's Global Budget Revenue agreement for incremental capital associated with the patient tower project.

ORDER

The Maryland Health Care Commission reviewed the Staff Report and Recommendation and based on that analysis and the record of the review, ordered on May 18, 2023, that the changes to the April 15, 2021 Certificate of Need at a total project cost of \$247,657,497 is **APPROVED**. The original CON contained two conditions, with the first condition remaining unchanged and the second condition revised to exclude the following amount with this project change:

1. Prior to its request for first use approval, Adventist HealthCare Shady Grove Medical Center shall identify bed capacity it will retain in operational status, the physical bed capacity it will repurpose but retain as physical bed capacity, and the physical bed capacity it will eliminate. This plan shall specifically address the hospital's assessment of the need for surge bed capacity and its plan to maintain and deploy adequate surge capacity when needed.
2. Any future change to the financing of this project involving adjustments in rates set by the Health Services Cost Review Commission must exclude **\$49,968,605**, which includes the estimated new construction costs that exceed the Marshall Valuation Service guideline cost and portions of the contingency allowance and inflation allowance that are based on the excess construction cost.

PERFORMANCE REQUIREMENTS

In accordance with COMAR 10.24.01.12C(3)(h), the project is subject to the following performance requirements:

The applicant states the project will be implemented in three phases, with each phase included in three separate construction contracts. Taking these three phases into account, the applicant will adhere to the following timeframes for completion of the proposed project:

Binding construction contract obligating not less than 51% of the Commission-approved capital expenditure, as documented by a binding construction contract for Phase 1A. (Tower Core and Shell Space).	Within 12 months of the date of the Certificate of Need (no later than April 2022)
Initiation of Phase 1A Construction (Tower Core and Shell Space)	Within 4 months of binding construction contract
Completion of Phase 1A (Tower Core and Shell Space).	Within 24 months of binding construction contract for Phase 1A
Binding construction contract obligating not less than 51% of the Commission-approved capital	Within 12 months after completion of Phase 1A

expenditure, as documented by a binding construction contract for Phase 1B, (Tower Fit Out)	
Completion of Phase 1B (Tower Fit Out)	Within 24 months of binding construction contract for Phase 1B
Binding construction contract obligating not less than 51% of the Commission-approved capital expenditure, as documented by a binding construction contract for Phase 2 (Renovations).	Within 12 months after completion of Phase 1B
Completion of Phase 2 (Renovations).	Within 24 months of binding construction contract for Phase 2

Failure to meet these performance requirements will render this Certificate of Need void, subject to the requirements of COMAR 10.24.01.12 F through I.

PROPOSED CHANGES TO THE APPROVED PROJECT

Before making any changes to the facts in the Certificate of Need application and other information provided to the Commission, SGMC must notify the Commission in writing and receive Commission approval of each proposed change, including the obligation of any funds above those approved by the Commission in this change from Certificate of Need approval, in accordance with COMAR 10.24.01.17. Pursuant to COMAR 10.24.01.17B(2), the project cannot incur capital cost increases that exceed the approved capital cost inflated by an amount determined by applying the Building Cost Index published on a quarterly basis by IHS Economics in the Healthcare Cost Review unless the applicant obtains a modification of this project change from Certificate of Need from the Commission. Instructions for determining the threshold that necessitates Commission review and approval of changes to the capital cost approved in this Certificate of Need are located on the Commission’s website at:

https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_con/documents/con_cap_cost_index_20210503.pdf.

DESIGN APPROVAL AND FACILITIES LICENSURE BY DHMH

This Certificate of Need does not constitute a license or replace any approvals required by the Office of Health Care Quality or others within the Maryland Department of Health (MDH) to construct and operate new space within an existing facility. SGMC must provide MDH with all information it requires for plan approval, facility licensure, and putting into operation renovated space within its existing facility, including information pertaining to project design and specifications.

QUARTERLY STATUS REPORTS

SGMC must submit quarterly status reports on the approved project change to the Commission, beginning August 18, 2023, three months from the date of this project change from this Certificate of Need review, and continuing, at three-month intervals, until the completion of the project.

must continue to submit quarterly status reports on the approved project to the Commission, continuing at three months intervals until the completion of the project.

REQUEST FOR FIRST USE REVIEW

SGMC must request in writing, not less than 60 days but not more than 120 days before the first use of the approved operating room, a first use review from the Commission, specifying the anticipated date of first use and documenting that the project has been substantially completed and will be completed, within 120 days or less, in a manner and at a cost consistent with this Certificate of Need. Commission staff will review the request in consultation, as necessary, with OHCQ, and in accordance with COMAR 10.24.01.18 to determine whether the project conforms with the Certificate of Need. First use approval does not constitute a license or replace any approvals required by OHCQ or others within MDH to operate new space within an existing health care facility. Therefore, SGMC should assure that OHCQ is notified of the imminent completion of the project and should arrange for completion of any inspections and or approvals required by OHCQ in a timely manner. First use approval remains in effect for 90 days. If first use of the new operating room does not occur within 90 days of approval, SGMC shall reapply for first use approval.

ACKNOWLEDGEMENT OF RECEIPT OF MODIFIED CERTIFICATE OF NEED

Acknowledgement of your receipt of this change from Modified Certificate of Need, stating acceptance of its terms and conditions, is required within thirty (30) days.

MARYLAND HEALTH CARE COMMISSION



Ben Steffen
Executive Director

cc: Patricia T. Nay, M.D., Executive Director, Office of Health Care Quality
Kisha Davis, M.D., Health Officer, Montgomery County Health Department
Katie Wunderlich, Executive Director, HSCRC
Wynee Hawk, Director, Center for Health Care Facilities Planning and Development
Caitlin Tepe, Assistant Attorney General