

# BAKER DONELSON

100 LIGHT STREET · BALTIMORE, MARYLAND 21202 · 410.685.1120 · bakerdonelson.com

**HOWARD L. SOLLINS, SHAREHOLDER**

**Direct Dial:** 410.862.1101

**Direct Fax:** 443.263.7569

**E-Mail Address:** hsollins@bakerdonelson.com

November 1, 2021

**VIA EMAIL AND FIRST CLASS MAIL**

Wynee E. Hawk, Esquire  
Chief - Certificate of Need Division  
Center for Health Care Facilities Planning & Development  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

**Re:   Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist  
HealthCare Rehabilitation (AHR) and Adventist HealthCare, Inc. d/b/a  
Adventist HealthCare White Oak Medical Center (WOMC)  
CON Docket No. 18-15-2428  
UPDATED: Project Change After Certification, Quarterly Progress  
Report and First Use Request**

Dear Ms. Hawk:

Attached are 3 documents pertaining to the above-referenced certificate of need relating to the construction of space at WOMC to which the rehabilitation beds operated by AHR in Takoma Park will be relocated. These include an Amended Project Change After Certification relating to the contracted capital cost of the project, a Quarterly Progress Report and an updated First Use approval request. Per our discussions, since the goal is for the inspection process and relocation to be completed by December 12, 2021, we are requesting that the Project Change request be considered by the Commission at its November meeting since that is, we understand, a predicate to the First Use approval.

Wynee E. Hawk, Esquire  
Maryland Health Care Commission  
November 1, 2021  
Page 2

Please let us know if there are questions or additional information would be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard L. Sollins", written over a horizontal line.

Howard L. Sollins

Enclosures

cc: Ben Steffen, Executive Director  
Mr. Paul Parker  
Ms. Ruby Potter  
Ms. Renee Webster, Office of Health Care Quality  
Travis A. Gayles, M.D., Ph.D.  
Health Officer - Montgomery County  
Andrew Nicklas, Deputy General Counsel & Director of Government Relations  
John J. Eller, Esquire

**UPDATED REQUEST FOR FIRST USE  
APPROVAL**

# BAKER DONELSON

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November 1, 2021

## VIA EMAIL AND FIRST CLASS MAIL

Wynee E. Hawk, Esquire  
Chief - Certificate of Need Division  
Center for Health Care Facilities Planning & Development  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

**Re:   Adventist Rehabilitation Hospital of Maryland**  
**Docket No.: 18-15-2428**  
**Updated Request for First Use Approval**

Dear Ms. Hawk:

We are making this filing on behalf of Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation ("Adventist Rehabilitation Hospital" or "AHR") and Adventist HealthCare Washington Adventist Hospital ("WAH," now known as White Oak Medical Center, or "WOMC"). AHR and WOMC are very pleased to report that construction of the two additional floors to the south tower at WOMC for the relocation of 42 AHR beds from the former WAH facility to WOMC (the "Project") is nearing completion. We are therefore requesting First Use Approval at this time, with First Use expected to occur on or about December 12, 2021.

We note that at the onset of the COVID pandemic, and in response to the Governor's declaration of a State of Emergency, the Commission suspended Quarterly Progress Report ("QPR") requirements, as well as compliance with Performance Requirements, for CON-approved projects being implemented. Notwithstanding the pandemic, it was nonetheless possible for the Project to be completed on a timeline consistent with the approved CON.

The Project is approximately 92% complete and is expected to be fully completed by the time of First Use. A Final Use and Occupancy Permit is expected by November 2, 2021 for the 6<sup>th</sup> floor and November 15, 2021 for the 7<sup>th</sup> floor. The owner/architect

“punch list” is complete for the 6<sup>th</sup> floor and scheduled to be completed by November 15, 2021 for the 7<sup>th</sup> floor. This will be followed by end user transition, furniture, signage, and medical equipment installation, material stocking and staff training. We expect both the 6<sup>th</sup> and 7<sup>th</sup> floors to be in patient ready condition by December 12, 2021.

Per the Request for Project Change After Certification filed simultaneously with this request, the contracted project capital budget exceeded the amount approved by the Commission. This overrun was the result of extensive delays and enhanced inflation due to the COVID-19 pandemic. Fortunately, despite the disruption of COVID-19, the project was able to remain on track to be completed in a timeframe consistent with the CON.

Though there have been no QPRs submitted during the COVID pandemic, we have attached the last QPR submitted for this Project (a combined QPR #1-2 submitted on November 20, 2019) for informational purposes and are filing the most recent QPR for the project simultaneously with this request. An updated Table 3, documenting the current budget information, is included with that filing.

The CON approval of March 21, 2019 included one condition:

**Prior to first use approval, Adventist Health Care will obtain two separate special hospital licenses for the AHR rehabilitation hospital facilities in Rockville and the AHR rehabilitation hospital facilities in Takoma Park.**

This is complete and the separate licenses are attached as Exhibit A. We will request an updated license from the Office of Health Care Quality (OHCQ) reflecting the change in location for the Takoma Park facility.

AHR has been in contact with Renee Webster at OHCQ and has scheduled the final inspection from OHCQ for November 22, 2021 before First Use may occur.

Wynee E. Hawk, Esquire  
Maryland Health Care Commission  
November 1, 2021  
Page 3

Accordingly, AHR and WOMC are hereby requesting First Use approval of the Project. We understand that this request may need to be held by the Commission until the Request for Project Change can be acted upon. We thank you for your assistance. If any additional information is needed, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard L. Sollins", with a long horizontal line extending to the left.

Howard L. Sollins

Enclosures

cc: Ben Steffen, Executive Director  
Mr. Paul Parker  
Ms. Ruby Potter  
Ms. Renee Webster, Office of Health Care Quality  
Travis A. Gayles, M.D., Ph.D.  
Health Officer - Montgomery County  
Andrew Nicklas, Deputy General Counsel & Director of Government Relations  
John J. Eller, Esquire

## **EXHIBIT A**



**MARYLAND DEPARTMENT OF HEALTH  
OFFICE OF HEALTH CARE QUALITY  
7120 SAMUEL MORSE DRIVE, SECOND FLOOR  
COLUMBIA, MARYLAND 21046-3422**

**License No. 15081**

Issued to:

**Adventist Healthcare Rehabilitation At Takoma Park  
7600 Carroll Avenue  
Takoma Park, MD 20912**

Type of Facility: **Special Hospital - Rehabilitation with 42 beds**

Date Issued: **August 25, 2019**

Authority to operate in this State is granted to the above entity pursuant to The Health-General Article, Title 19 Section 318 Annotated Code of Maryland, 1982 Edition, and subsequent supplements and is subject to any and all statutory provisions, including all applicable rules and regulations promulgated thereunder. This document is not transferable.

Expiration Date: **Non- Expiring**

*Patricia Tomasko May, MD*

Executive Director

Falsification of a license shall subject the perpetrator to criminal prosecution and the imposition of civil fines.





**MARYLAND DEPARTMENT OF HEALTH  
OFFICE OF HEALTH CARE QUALITY  
7120 SAMUEL MORSE DRIVE, SECOND FLOOR  
COLUMBIA, MARYLAND 21046-3422**

**License No. 15077**

**Issued to:**

**Adventist Healthcare Rehabilitation At Rockville  
9909 Medical Center Drive  
Rockville, MD 20850**

**Type of Facility: Special Hospital - Rehabilitation with 55 beds**

**Date Issued: August 25, 2019**

Authority to operate in this State is granted to the above entity pursuant to The Health-General Article, Title 19 Section 318 Annotated Code of Maryland, 1982 Edition, and subsequent supplements and is subject to any and all statutory provisions, including all applicable rules and regulations promulgated thereunder. This document is not transferable.

**Expiration Date: Non- Expiring**

*Patricia Tomsko May, MD*

Executive Director

Falsification of a license shall subject the perpetrator to criminal prosecution and the imposition of civil fines.

# **CON QUARTERLY PROGRESS REPORT**

## CERTIFICATE OF NEED QUARTERLY PROGRESS REPORT

<b>Name and address of facility/project:</b> Adventist HealthCare, Inc.d/b/a White Oak Medical Center Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation 18900 Healing Way Silver Spring, Maryland 20904	<b>CON Docket No:</b> 18-15-2428
<b>Person responsible for this report (name and title):</b> Andrew Nicklas, Deputy General Counsel	<b>Report Number:</b> 3-8
<b>Telephone No:</b> 301-315-3125	<b>Report Period:</b> 9/21/19 – 9/15/2021

### ***Instructions:***

***(a) All holders of a Certificate of Need (CON) issued by the Maryland Health Care Commission (Commission) are required to submit Quarterly Progress Reports until such time as the project is complete (COMAR 10.24.01.13B). Failure to provide these reports may result in revocation of the CON. Any changes to the facts of the approved project as represented to the Commission must be reported through these quarterly progress reports.***

***(b) The Commission's regulations at COMAR 10.24.01.17 describe the types of changes to a certified project that may require a modification of the CON, or a new CON. The following project changes are modifications which require prior approval by the Commission: (1) significant changes in physical plant design; (2) capital cost increases; (3) total expense or revenue increases; (4) changes in the financing mechanisms of the project; (5) a change in location or address of the project. Changes in the fundamental nature of a facility or services, increases in the capacity of beds or other medical services categories, and changes that require an extension of time to meet the applicable performance requirements, except as permitted by regulation, may require a new CON.***

***(c) You must send a copy of each report to the responsible local health planning agency.***

***(d) You must provide documentation of the fulfillment of each of the performance requirements applicable to this project with these reports. Each performance requirement may be extended by up to six months upon showing of good cause. A written request for an extension must be received by the Commission at least 30 days before the date by which the performance requirement is to be completed. A request is considered to allow good cause if it demonstrates that circumstances completely beyond the control of the holder of the CON require the extension. Good cause does not include delays in securing financing. Documentation is required showing good cause and reasonable assurance that the performance requirement will be met by the end of the extended period.***

***(e) If the CON was approved with conditions, those conditions are listed below, and you must report on the progress in meeting those conditions. Documentation of compliance with these conditions will be necessary for any future CON applications.***

***(f) The Commission may require submission of documentation to substantiate all expenditures and any other representations made in this report at any time.***

**(g) If the contact person and phone number shown above has changed, please make the necessary correction. If the address of the project will change, NOTIFY THE COMMISSION IMMEDIATELY!**

**(h) Do not delete any items from this form. You may add items to this form as necessary, and you may respond to other items with "not applicable", if appropriate.**

**1. Describe the progress made in the implementation of the current project in the space below, and complete Table 1, providing projected or actual dates or cost. If the original estimated dates of completion have changed, provide a brief narrative description explaining the reason for the change. If obligation of funds for the project has been completed since submission of the last quarterly report, attach the construction contract or other appropriate documentation.**

The Project is approximately 83% complete and is expected to be fully completed by the time of First Use. A Final Use and Occupancy Permit is expected by October 1, 2021 for the 6<sup>th</sup> floor and October 15, 2021 for the 7<sup>th</sup> floor. The owner/architect "punch list" is scheduled to be completed by October 15, 2021 for the 6<sup>th</sup> floor and by October 28, 2021 for the 7<sup>th</sup> floor. We expect both the 6<sup>th</sup> and 7<sup>th</sup> floors to be in patient ready condition by November 1, 2021. A final inspection from the Office of Health Care Quality has been scheduled for November 2, 2021.

The attention required to respond to the COVID-19 pandemic resulted in delays to the original estimated dates of completion. Internal focus was on creating immediate capacity to treat infectious patients. Externally, delays in the permitting process due to changes in normal business practices of government agencies, as well as delays associated with the logistics of running the project on an active hospital site during a pandemic impacted the original estimated project timeline. Despite these delays, the project remains on track for completion in a timeframe consistent with the approved CON.

**Table 1. Performance Requirements**

<b>Performance Requirements and Other Requirements</b>	<b>Performance Requirement Deadline</b>	<b>Current Estimate (Date or \$)</b>	<b>Actual (Date or \$)</b>
A Binding construction contract obligating not less than 51% of the approved capital expenditure	March 21, 2021		Sep 30, 2019 (Core & Shell) Feb 21, 2021 (Fitout)
Project is complete no later than 24 months after the effective date of the binding construction contract	within 24 months after the effective date of the binding construction contract	Jun 17, 2020 (Core& Shell) Oct 15, 2021 (Fitout)	Jun 21, 2021 (Core & Shell)
Commission-Approved Project Cost : \$19,547,323		\$22,544,375	\$18,689,990

2. As a result of the progress made on the implementation of the project, describe the effect on the dates specified in the performance requirements as shown in Table 1, and any changes that may be necessary to the dates in the performance requirements.

The project is being implemented within the time period specified by the Commission.

3. Provide a brief description in the space below of the progress made toward obtaining the necessary zoning approvals, exceptions, building permits and environmental clearances required for this project. Include meetings with officials or approving authorities, legal actions commenced and/or appeals filed or court actions completed. Attach supplemental material as needed.

The Core & Shell Permit was approved with the Hospital Permit #788131.

The Interior Fitout Construction Design permit was completed in late March 20, 2020 and submitted to Montgomery County Department of Permitting Services in April 7, 2020. Due to the pandemic, the Rehab Fitout permit was not approved until Feb 7, 2021 and the Washington Suburban Sanitary Commission permit was subsequently approved on April 1, 2021.

Use and Occupancy Permits are anticipated for floor 6 on October 1, 2021 and floor 7 on October 15, 2021.

Provide completion dates in Table 2 in connection with this progress, adding items as necessary, and state the level of architectural plans as they become available:

**Table 2. Zoning and Building Permits**

Description	Original Projected Date of Completion	Revised Projected Date of Completion	Actual Date of Completion
A. Zoning Process	N/A		
1. Exceptions Filed			
2. Appeals (explain above)			
3. Approved			
4. Denied (explain above)			
B. Permits and Other approvals			
1. Building Permits issued			
a. Grading			
b. Excavation			
c. Construction (Core & Shell)			April 11, 2017
d. Other (Construction Fitout)	December 30, 2019	July 20, 2020	Feb 8, 2021 (DPS Approved). April 1, 2021 (WSSC permit)
2. Fire and Life Safety Code Approvals			
3. Other:			
4. Other:			

C. Architectural Plans Status: Interior Fitout CDs Complete	Oct 31 2019		Mar 20, 2020
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**4. Describe issues affecting the project budget and complete Table 3 below. Do you anticipate the project staying within the total approved cost? If not, explain why not, and state which line items in the budget shown in Table 3 will be exceeded and by how much.**

In preparing this filing, it was identified that contracted construction costs had gone over budget during the COVID-19 pandemic as of February 2021. The design of the project has not changed. Rather, it is the result of the unusual market conditions in which considerable spikes in costs of materials and labor became increasingly common for projects being completed during the COVID-19 pandemic health emergency. The impact of inflation increases experienced during 2020 and 2021 exceeded the inflation index used by the Commission. For example, steel, gypsum, lumber, electrical and plumbing supplies costs increased erratically 10% - 300% while unpredictable supply chain delays caused delays in shipping and negatively impacted site productivity.

The total budget increase is from \$19,547,323 to \$22,544,375, however, using the Commission's inflation index \$781,067, the net increase, for which we have filed a request for approval, is \$2,967,985.

**Table 3. Project Cost**

Project Budget/Expenditures	CON Application	Current Estimated Total Cost	Binding Contract Obligations	Cumulative Expenditures
<b>1. Capital Costs</b>				
Land Purchase				
<b>New Construction</b>				
Building	\$13,448,000	\$18,200,949	\$18,200,949	\$15,757,184
Fixed equipment				
Site preparation				
Architect/engineering fees	\$1,626,480	\$1,578,648	\$1,578,648	\$1,334,995
Permits (building, utilities, etc)	\$289,152	\$295,717	\$295,717	\$295,717
<b>Subtotal-Land Purchase and New Construction</b>	<b>\$15,363,632</b>	<b>\$20,075,314</b>	<b>\$20,075,314</b>	<b>\$17,387,897</b>
<b>Renovation</b>				
<b>Other Capital Costs</b>				
Major movable equipment				



Minor movable equipment				
Contingencies	\$984,641			
Other	\$2,447,050	\$2,469,061	\$2,469,061	\$1,302,094
Capitalized construction interest				
<b>Subtotal Other Capital Cost</b>	<b>\$3,431,691</b>	<b>\$2,469,061</b>	<b>\$2,469,061</b>	<b>\$1,302,094</b>
<b>TOTAL CURRENT CAPITAL COST</b>	<b>\$18,795,323</b>	<b>\$22,544,375</b>	<b>\$22,518,375</b>	<b>\$18,689,990</b>
Other Non-Current capital Costs				
Inflation allowance	\$752,000	\$0		
<b>Subtotal Other Non-Current Capital Costs</b>	<b>\$752,000</b>	<b>\$0</b>		
<b>TOTAL CAPITAL COSTS</b>	<b>\$19,547,323</b>	<b>\$22,544,375</b>	<b>\$22,518,375</b>	<b>\$18,689,990</b>
<b>2. Financing Costs and Other Cash Requirements</b>				
Loan placement fees				
Bond discount				
Legal fees (CON Related)				
CON application assistance				
Legal fees - Other				
Liquidation of existing debt				
Debt service reserve fund				
Principal amortization				
Reserve fund				
Other financing cost				
<b>Total</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>3. Working Capital Startup Costs</b>				
Working Capital		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total Uses of Funds (1+2+3)</b>	<b>\$19,547,323</b>	<b>\$22,544,375</b>	<b>\$22,518,375</b>	<b>\$18,689,990</b>
<b>Project Square Footage</b>				
New Construction	36,109			
Renovation	N/A			

\* Pursuant to COMAR 10.24.01.17 B(2), the project cannot incur capital cost increases that exceed the approved current capital cost, inflated by an amount determined by applying the Engineering News Record Building Cost Index published on a quarterly basis by Global Insight in *Health-Care Cost Review*, unless it obtains a modification of this 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:

<http://mhcc.dhmd.maryland.gov/certificateofneed/>

**5. The conditions placed on this CON are listed below.**

Prior to first use approval, Adventist Rehabilitation Hospital of Maryland, d/b/a Adventist HealthCare Rehabilitation will obtain two separate special hospital licenses for: (1) the rehabilitation hospital facility located in Rockville, Maryland; and (2) the rehabilitation hospital facility to be relocated from Takoma Park, Maryland to the new Washington Adventist Hospital in Silver Spring, Maryland.

**In the space below, describe the specific progress made in the last 90-day period in implementing these conditions. Provide supplemental material to document compliance as necessary.**

The OHCQ has granted two separate licenses for the two locations of the Adventist Rehabilitation Hospital of Maryland (attached).

**6. This project was approved for a total physical capacity of:**

42 inpatient rehabilitation beds

**Describe any changes in the expected capacity of the facility's services over that approved.**

None.

**7. Describe any changes to the physical plant design of the project since CON approval.**

None.

**8. Describe any differences in the financing mechanisms for the project from those stated in the CON application.**

There are no changes to the funding approach for this project since the original application. This project will be funded with cash on hand.



**9. Describe the progress made in obtaining financing during the last 90 day period. (For example, indicate when the financing commitment is anticipated to be in hand, and other specific dates, meetings with officers of financial institutions, bond authorities and/or any other financing authorities.)**

N/A Please refer to # 8 above.

**10. For approved new services, describe any projected differences in revenues or expenses over those stated in the CON application, and the reasons for those differences.**

N/A

**11. Based upon the progress shown above, do you anticipate the need to file a request for Commission review of modifications to the project as approved?**

Yes

**If yes, please specify the anticipated changes, and the anticipated schedule for filing the modification request.**

A request for an increase in the budget is being made accompanying this report.

I, *Andrew R Nickless*, as a duly authorized representative of the Adventist HealthCare, hereby declare and affirm, under the penalties of perjury, that the facts stated in this report and its attachments are true and correct to the best of my knowledge, information and belief.

**AMENDED REQUEST FOR  
PROJECT CHANGE AFTER  
CERTIFICATION**

IN THE MATTER OF	*	BEFORE THE
ADVENTIST REHABILITATION HOSPITAL	*	
OF MARYLAND, INC. D/B/A ADVENTIST	*	MARYLAND HEALTH
HEALTHCARE REHABILITATION	*	
AND	*	CARE COMMISSION
ADVENTIST HEALTHCARE INC. D/B/A	*	
WHITE OAK MEDICAL CENTER	*	Docket No. 18-15-2428
	*	
*   *   *   *   *   *   *   *		

**AMENDED REQUEST FOR PROJECT CHANGE AFTER CERTIFICATION**

Adventist Rehabilitation Hospital of Maryland, Inc. d/b/a Adventist HealthCare Rehabilitation (“AHR”) and Adventist HealthCare, Inc. d/b/a Adventist HealthCare White Oak Medical Center (“WOMC”) (formerly Washington Adventist Hospital) by their undersigned counsel, asks the Maryland Health Care Commission (the “Commission”) to approve a change to the above-referenced project.

On March 21, 2019, the Commission issued a certificate of need (“CON”) for this project. This CON authorized co-applicants AHR and WOMC to relocate 42 inpatient rehabilitation beds to space within the new general hospital then being constructed in Silver Spring, Maryland as a replacement for Washington Adventist Hospital at Takoma Park, Maryland, at a cost of \$19,547,323, with cash as the source of funds.

The design of the project has not changed. The source of funds has not changed and remains cash. Substantial progress has been made in implementing the project. This includes approximately 92% completion, scheduled inspection by the Office of Health Care Quality and planned opening by December 12, 2021, well within applicable performance requirements under the Commission’s regulations. A request for First Use is being separately submitted along with this project change request.

While an initial Quarterly Progress Report (“QPR”) was filed in October, 2019, the Commission subsequently suspended the QPR filing process for all pending projects related to the COVID-19 pandemic health emergency. QPR reporting has since been resumed and this project’s next QPR is being filed along with this project change request.

In preparing the First Use approval request and next required QPR, it was identified that contracted construction costs exceeded the CON budget during the COVID-19 pandemic as of February 2021. While the capital costs expended to date are within the CON budget, the contracted cost is greater. There has not been a change in the design of the project. This increase in contracted cost is the result of the unusual market conditions in which considerable spikes in costs of materials and labor became increasingly common for projects being completed during

the COVID-19 pandemic health emergency. The impact of inflation increases experienced during 2020 and 2021 exceeded the inflation index used by the Commission. For example, steel, gypsum, lumber, electrical and plumbing supplies costs increased erratically 10% - 300% while unpredictable supply chain delays caused delays in shipping and negatively project progress. In addition, delays in the permitting process due to disruption in normal business and review practices of agencies in charge of that process, as well as delays associated with the logistics of the project on an active hospital site during a pandemic impacted the project.

As a result, the project contracted budget now exceeds the CON budget, as adjusted for inflation, using the Commission's inflation index. This was completely inadvertent and resulted from the focus on completing the project in a timely manner, at a time in which the internal QPR preparation process and the associated quarterly updating of the project budget in Table 3, had been put on hold due to the declared State of Emergency. While fortunate to have been able to continue construction within performance requirements notwithstanding the pandemic, the attention to COVID related matters by AHR and WOMC disrupted the usual processes for monitoring project implementation requirements. We fully appreciate, with apologies, that this request should have preceded contracting in excess of the budget in the CON. The attached QPR contains an updated Table 3 and details the cost increases.

The budgeted increase is from \$19,547,323 to \$22,544,375. Therefore, we request an increase of \$2,997,052 which includes \$781,067 in allowable inflation costs. The allowable inflation increased with the increase in the budget, from \$752,000 to \$781,067. Please note that the increase to the inflation index is not itemized in the QPR Table 3. We request the applicable deadline be extended for making this project change request pursuant to COMAR 10.24.01.10A(2).

The Commission's regulations at COMAR 10.24.01.17A require notification of any proposed project changes. Certain types of proposed project changes are impermissible, including the following (§.17C):

1. Changes in the fundamental nature of a facility or the services to be provided in the facility from those that were approved by the Commission;
2. Increases in the total licensed bed capacity or medical service categories from those approved;
3. Any change that requires an extension of time to meet the applicable performance requirements specified under Regulation .12 of this chapter, except as permitted under Regulation .12E of this chapter.

The proposed change identified in this filing do not alter the fundamental nature of the project; will not result in an increase in the total licensed bed capacity as previously approved; and will not require any extension of time beyond what is permitted under Regulation .12E or as otherwise would be applicable pursuant to the Commission's July 30, 2021 Guidance to meet applicable performance requirements.

Though all project changes require notification to the Commission, only the following types of changes to a project require formal Commission approval (§.17B):

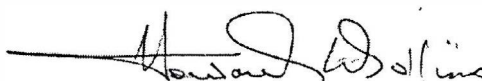
1. Before making a significant change in physical plant design;
2. Before incurring capital cost increases that exceed the approved capital cost inflated by an amount determined by applying the Building Cost Index published in Health Care Cost Review from the application submission date to the date of the filing of a request for approval of a project change;
3. When total projected operating expenses or revenue increases exceed the projected expenses or revenues in the approved Certificate of Need Application, inflated by 10 percent per year;
4. Before changing the financial mechanisms of the project;
5. Before changing the location or address of the project.

Of these changes, only §.17B(2) is applicable because the contracted capital costs of the project increased as itemized in the QPR Table 3. These project changes did not affect the design of the project, therefore §.17B(1) is not applicable. Since operating revenues and expenses will not increase above those projected in the approved CON inflated by 10 percent per year, §.17B(3) is not applicable. §.17B(4) is not applicable because the financing mechanisms for the project identified in the CON application did not change – this project is being paid for in cash. The location or address of the project is not change, hence §.17B(5) is not applicable.

### **CONCLUSION**

For these reasons, AHR and WOMC respectfully request that the Commission approve the change in capital budget described above. Thank you for your consideration.

Respectfully submitted,



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Howard L. Sollins  
John J. Eller  
Baker, Donelson, Bearman, Caldwell & Berkowitz  
100 Light Street  
Baltimore, MD 21202  
410-685-1120  
[hsollins@bakerdonelson.com](mailto:hsollins@bakerdonelson.com)  
[jeller@bakerdonelson.com](mailto:jeller@bakerdonelson.com)

## **CERTIFICATE OF SERVICE**

I hereby certify on this 1st day of November 2021 a copy of the Amended Request for Project Change After Certification were mailed via first class mail and via email to:

Ben Steffen, Executive Director  
Maryland Health Care Commission  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215

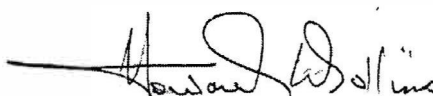
Mr. Paul Parker  
Director, Health Care Facilities Plan. & Dev.  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215-2299

Ms. Ruby Potter  
Maryland Health Care Commission  
Health Facilities Coordination Office  
4160 Patterson Avenue  
Baltimore, MD 21215

Renee Webster  
Office of Health Care Quality  
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Travis A. Gayles, M.D., Ph.D.  
Health Officer - Montgomery County  
401 Hungerford Drive, 5th Floor  
Rockville, MD 20850

Andrew R. Nicklas, JD  
Deputy General Counsel & Director of Government Relations  
Adventist HealthCare  
820 W. Diamond Avenue, Suite 600  
Gaithersburg, MD 20878



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Howard L. Sollins, Shareholder