

GALLAGHER

GALLAGHER EVELIUS & JONES
ATTORNEYS AT LAW

March 18, 2020

VIA EMAIL & U.S. MAIL

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

Ruby Potter
Health Facilities Coordination Officer
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

**Re: Emergency Certificate of Need Application – Mercy Medical Center,
Inc.**

Dear Mr. Steffen and Ms. Potter:

On behalf of Mercy Medical Center, Inc. (“Mercy”) and pursuant to COMAR 10.24.01.20, I write to seek an Emergency Certificate of Need (“CON”) to establish a thirty-two (32) bed MSGA unit to be located on the 17th floor of the Mary Catherine Bunting Center, the main hospital tower, at Mercy.

As you know, due to a world-wide outbreak of a coronavirus known as SARS-CoV-2 (“COVID-19”), the President of the United States has declared a national state of emergency, the Secretary of the United States Department of Health and Human Services has declared a public health emergency, and on March 5, 2020, the Governor of the State of Maryland, Lawrence J. Hogan, Jr., declared a state of emergency and catastrophic health emergency. Additionally, on March 16, 2020, the Governor issued an Executive Order directing the Maryland Department of Health to work with health care facilities and providers to reopen closed hospital facilities across the state and to take other measures necessary to immediately increase statewide hospital capacity. COVID-19 presents immediate hazards to the health of patients statewide, and requires immediate action pursuant to your authority under COMAR 10.24.01.20B and consistent with Governor Hogan’s Executive Order to increase inpatient hospital capacity to accommodate potential surge capacities related to COVID-19.

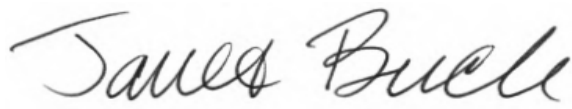
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Mercy hereby applies for an Emergency Certificate of Need for the purpose of establishing increased hospital capacity in preparation for an expected surge in hospital admissions related to COVID-19 infection and treatment. The proposed project would result in the build-out of an entire floor of approximately 30,000 square feet of shell space located on the 17th floor of the Mary Catherine Bunting Center, the main hospital tower at Mercy, to create additional acute care capacity. The project will allow for an anticipated additional thirty-two (32) private, inpatient MSGA beds. The cost of the project will not exceed the hospital capital threshold requiring a CON from the Maryland Health Care Commission under MARYLAND CODE, HEALTH-GENERAL § 19-120(a)(4). The total project cost is estimated to be \$12.5 million and Mercy intends to request donor funding in support of the project. The project is expected to be completed within 70-75 days of CON approval. At this time, Mercy does not intend to seek HSCRC rate support for this project. In support of the proposed project, Mercy submits the attached letter in support from Katie Wunderlich, Executive Director of the Maryland Health Services Cost Review Commission, attached as Exhibit 1.

Mercy also seeks a waiver from the Executive Director or designee pursuant to COMAR 10.24.01.10A(2) such that: (1) the requirement under COMAR 10.24.01.20C for the Emergency CON applicant to file a formal CON application be suspended until at least thirty (30) days after the declared state of emergency of March 5, 2020 is terminated; and (2) that any Emergency CON granted pursuant to this Emergency CON application not expire until thirty (30) days after the declared state of emergency of March 5, 2020 is terminated or 165 days after its issuance, whichever is later.

We respectfully request you to act on this request as soon as possible so that Mercy can begin work on this critically important project. Please let us know if you need any additional information regarding the requested Emergency CON Application.

Sincerely,



James Buck

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Ms. Ruby Potter
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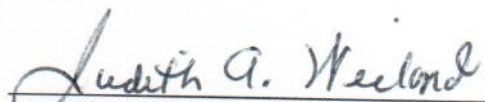
Cc: via email

Robert R. Neall, Secretary, Maryland Department of Health
Dennis R. Schrader, Deputy Secretary for Health Care Financing & Chief Operating Officer
Andrew N. Pollak, M.D. Chairman, Maryland Health Care Commission
Katie Wunderlich, Executive Director, Maryland Health Services Cost Review Commission
Patricia T. (Tricia) Nay, M.D. Director, Office of Health Care Quality
Renee Webster, Assistant Director for Hospitals, Laboratories and Patient Safety, OHCQ
Paul Parker, Director, Center for Health Care Facilities Planning & Development
Kevin McDonald, Chief, Certificate of Need
Suellen Wideman, Esq., Assistant Attorney General
Letitia T. Dzirasa, M.D., Commissioner of Health, Baltimore City
Tom Mullen, President and CEO, Mercy Health Services, Inc.
Judith A. Weiland, Senior Vice President, Strategic/Capital Planning & Facilities
Ryan C. O'Doherty, Vice President, Marketing and External Affairs

I hereby declare and affirm under the penalties of perjury that the facts stated in this Emergency Certificate of Need Application and its attachments are true and correct to the best of my knowledge, information, and belief.

March 18, 2020

Date



Judith A. Weiland

Senior Vice President

Strategic/Capital Planning & Facilities

Mercy Health Services, Inc.

EXHIBIT 1

State of Maryland
Department of Health



Adam Kane
Chairman

Joseph Antos, PhD
Vice-Chairman

Victoria W. Bayless

Stacia Cohen

John M. Colmers

James N. Elliott, M.D.

Katie Wunderlich
Executive Director

Allan Pack, Director
Population Based
Methodologies

Chris Peterson, Director
Payment Reform &
Provider Alignment

Gerard J. Schmith, Director
Revenue & Regulation
Compliance

William Henderson, Director
Medical Economics &
Data Analytics

Health Services Cost Review Commission

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hsrc.maryland.gov

MEMORANDUM

TO: Thomas Mullen, President and CEO

FROM: Katie Wunderlich, Executive Director, HSCRC

DATE: March 17, 2020

RE: Emergency CON to address COVID-19

The HSCRC understands from your letter, dated March 17, 2020, that Mercy Medical Center intends to apply for an Emergency Certificate of Need for the purposes of allowing for increased hospital capacity in preparation for an expected surge in hospital admissions relative to COVID-19. It is our understanding that you anticipate a project that will build out an entire floor of shell space located on the 17th floor of the Mary Catherine Bunting Center main hospital at Mercy Medical Center, which will allow for an additional 32 inpatient beds.

Please be advised that the HSCRC supports efforts by hospitals to meet the needs of the people of Maryland consistent with the recent actions taken by the Governor, including the Executive Order directing the Maryland Department of Health to work with providers to take those steps that will increase statewide capacity as needed.

The HSCRC is simultaneously developing adjustments to its rate-setting policies and methodologies to help facilitate these actions while continuing to assure the people of Maryland that they will receive the hospital care that is needed, and that hospitals will continue to charge reasonable rates in accordance with the principles of the rate system.

With these points in mind, the HSCRC is supportive of the intent behind Mercy’s Emergency Certificate of Need application. We look forward to working with you during these challenging times.

March 17, 2020

Patricia T. (Tricia) Nay, M.D.
Director, Office of Health Care Quality
Maryland Department of Health
7120 Samuel Morse Drive
Second Floor
Columbia, Maryland 21046-3422
tricia.nay@maryland.gov

RE: Emergency Certificate of Need to address COVID-19

Dear Dr. Nay:

Mercy Medical Center intends to apply for an Emergency Certificate of Need (CON) for the purposes of allowing for increased hospital capacity in preparation for an expected surge in hospital admissions related to COVID-19. Yesterday, Governor Hogan issued an Executive Order to direct the Maryland Department of Health (MDH) to work with providers to reopen closed hospital facilities across the state and take other measures necessary to immediately increase statewide hospital capacity by an additional 6,000 beds.

Therefore, we are requesting a letter of support from the Maryland Office of Health Care Quality (OHCQ), in accordance with requirements of the Emergency CON application process. The CON requires “suitably detailed written information explaining why action cannot be delayed” from OHCQ. Accordingly, the Governor’s Executive Order yesterday and on March 5th, declaring a catastrophic health emergency in Maryland provides justification.

The project will build out an entire floor of shell space located on the 17th floor of Mary Catherine Bunting Center main hospital at Mercy Medical Center to create additional acute care capacity. The project will allow for an additional 32 inpatient beds. The cost of the project will not exceed the threshold requiring a CON from the Maryland Health Care Commission. The total project cost is estimated at \$12.5 million and Mercy intends to request donor funding in support of the project. The project is expected to be completed within 70 days of CON approval. At this time, Mercy does not intend to seek HSCRC rate support for this project.

Should you have any questions, please contact Ryan O’Doherty, Mercy Medical Center at 410-332-9424 or rodohert@mdmercy.com. Thank you



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OFFICE OF THE PRESIDENT & CEO

very much for your consideration of our request for a letter of support from the OHCQ. We appreciate the OHCQ's commitment to working with hospitals to address the COVID-19 public health emergency.

Sincerely,



Thomas R. Mullen
President & CEO

Cc:

Robert R. Neall, Secretary, Maryland Department of Health

Dennis R. Schrader, Deputy Secretary for Health Care Financing & Chief Operating Officer

Renee Webster, Assistant Director for Hospitals, Laboratories and Patient Safety



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