

February 20, 2020

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Via Email and Hand Delivery – Return Receipt Requested

Margo Michaels, MPH  
Director, Determination of Need Program  
Department of Public Health  
250 Washington Street  
Boston, MA 02108

Re: AmSurg BMC, LLC  
Determination of Need Application # 19102312-TO  
Transfer of Ownership of Pioneer Valley Surgicenter, LLC

Dear Ms. Michaels:

We write on behalf of AmSurg BMC, LLC ("Applicant") to thank the Department of Public Health ("Department") for its diligent review of the above-captioned Determination of Need ("DoN") Application related to the transfer of ownership of Pioneer Valley Surgicenter, LLC ("PVSC"). Pursuant to 105 CMR 100.510(C), we write to submit written comments on behalf of the Applicant regarding certain of the proposed conditions contained in the Department's Staff Report to the Public Health Council (the "Staff Report") for the above-captioned DoN Application. For the reasons explained in more detail below, the Applicant respectfully seeks to request revisions to certain of the proposed conditions and to provide additional clarifying information regarding the reporting requirements. Accordingly, we offer the following comments.

1. Condition 1 (Page 22). The Applicant seeks to clarify the language of Condition 1, which requires that the Applicant, on a yearly basis, "Report on the shift in scheduling surgical procedures at BMC to PVSC and any resulting reduction of such procedures at BMC." The Applicant notes that currently, physicians from Western Mass. Gastroenterology Associates ("Western MA GI Associates"), Ear, Nose and Throat Surgeons of Western New England ("ENT Surgeons of WNE"), and ("WNE Hand Surgeons"), as well as certain independent physicians, maintain block schedules at Baystate Medical Center ("BMC") and PVSC (and other locations in some instances), and schedule patients for surgical services accordingly. In the future, the Applicant has plans for Baystate Medical Practices ("BMP") physicians to also be credentialed to perform surgery at PVSC and schedule patients for surgical services at BMC and PVSC in a similar fashion. To this point, the Applicant clarifies that there is not currently, and will not be in the future, a specific transfer rate of surgical patients from BMC to PVSC. However, to satisfy this condition, the Applicant can provide information related to the number of surgical procedures at PVSC and BMC, as the Applicant anticipates that the Proposed Project will result in an increase in utilization at PVSC and a decrease in utilization at BMC for appropriate gastroenterology ("GI"), ear, nose and throat ("ENT"), and hand surgeries.

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2. Condition 2 (Page 22). With respect to Condition 2 regarding wait times, the Applicant can provide wait time information for BMC. However, the Applicant notes that particularly at PVSC, wait times are short and there are open blocks available. Additionally, in the case of elective procedures, patients often choose to delay surgery to a date in the future that is convenient. Accordingly, we anticipate that wait times at PVSC will continue to be based, primarily on patient preference of when patients elect to have their surgery performed.
3. Condition 3 (Page 22). The Applicant wishes to clarify that it can provide evidence of timely communication with patients' referring physicians. To this point, the Applicant notes that referrals are typically made through a patient's primary care physician ("PCP") to the specialist. However, in some instances, patients self-refer (e.g., patients research and directly contact the specialist based on their respective health concern) and no referring physician is involved or indicated.

In addition, the Applicant emphasizes that it is still investigating the possibility of PVSC's participation in the Pioneer Valley Information Exchange ("PVIX"). Currently and in the future short-term, the Applicant expects that a copy of the operating note will continue to be faxed to the patient's referring or other appropriate physician. The Applicant will continue to investigate the possibility of further long-term interoperability, such as PVSC's participation in PVIX.

In light of the foregoing, the Applicant proposes the following revised measure for consideration by the Department:

*Track and provide evidence of timely communication with patients' referring physicians, when applicable, after surgery, including:*

- (a) How information was communicated; and*
- (b) The timeframes within which such communications took place after interactions with patients.*

*Reporting shall include reporting on PVSC's current procedures to share patient data, including across electronic health systems, and as it may become applicable, through its membership in PVIX.*

4. Condition 4 (Page 22). The Applicant has carefully reviewed the Required Measures for Annual Reporting ("Required Measures") and seeks to amend and/or clarify the following:
  1. Required Measure 1 (Page 23). The Applicant notes that Required Measure 1 regarding Validated Patient-Reported Outcome Measures (PROMs) related to surgical procedures occur in post-surgical visits with the surgeon, including NEFF 0427. Surgeons practicing at PVSC are independent practitioners and not employed by PVSC. Given the number of physicians and practices involved, PVSC does not have sufficient control to ensure uniformity among surveys and enforce the



collection of such surveys. Accordingly, PVSC does not feel that this data can be adequately collected while providing an accurate reporting measure.

2. Required Measure 2 (Page 23). The Applicant notes that Required Measure 2 regarding unplanned hospital visits is a hospital outpatient department, and not an ambulatory surgical center (“ASC”), measure. Accordingly, PVSC, as an ASC does not collect information on this measure. However, the Applicant has the capability to collect and track similar information and, therefore, proposes to report on the following revised measure:

*Unplanned Hospital Visits from all surgical procedures performed at PVSC, based on the following parameters:*

- (a) Any transfers or admissions from PVSC directly to an acute care hospital, including hospital emergency department (“ED”); and*
- (b) All hospital visits and admissions within 48 hours of discharge for non-surgical interventions.*

*This shall be reported by age cohorts 0-21 years, 21-64 years and 65+.*

3. Required Measure 3 (Page 23). With respect to Required Measure 3 regarding the Consumer Assessment of Healthcare Providers and Systems Outpatient and Ambulatory Surgery Survey (“OAS-CAHPS”), the Applicant notes that PVSC typically does not report on “Bottom Box” performance as the Centers for Medicare & Medicaid Services (“CMS”) reports “Top Box” performance and it is not industry standard to report on “Bottom Box” performance. In addition, Press Ganey, PVSC’s vendor of the OAS-CAHPS, does not offer a definition of “Bottom Box” and does not readily provide a “Bottom Box” analysis. Therefore, provision of “Bottom Box” performance information would be a time- and resource-intensive process. Accordingly, the Applicant proposes to provide information regarding “Top Box” performance during its annual reporting. However, should the Department continue to require reporting on “Bottom Box” performance, the Applicant requests that the Department provide a definition of “Bottom Box” for the Applicant to base its reporting on.
4. Required Measure 4 (Page 23). Similar to Required Measure 2, the Applicant notes that Required Measure 4 regarding all-cause hospital ED visits or admissions is a hospital outpatient department, and not an ASC, measure. Accordingly, PVSC, as an ASC, does not collect information on this measure. While PVSC’s incident reporting system does not have the capability to capture all-cause hospital ED visits or admissions within 30 days post-procedure, it does have the capability to capture hospital visits for any unintended outcomes that are reported back to the Applicant within 30 days. Accordingly, the Applicant proposes to track and report on the following revised measure:

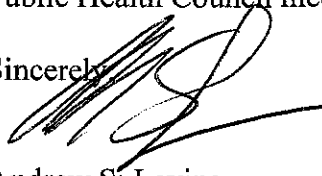
*Variance from intended outcome for the following indications of all surgical procedures within 30 days post-discharge from PVSC to the extent that such variance is reported to PVSC within 30 days post-discharge:*

- (a) Surgery and anesthesia-related complications*
- (b) Serious medical event following anesthesia (i.e., CVA, MI, coma)*
- (c) Cardiac and/or pulmonary arrest or distress*
- (d) Death/loss of limb or function*
- (e) Complications requiring additional treatment or surgical intervention*
- (f) Accidental punctures/perforations; colon perforations*
- (g) DVT/pulmonary emboli*
- (h) Infections (including deep tissue, organ/systemic involvement, TASS, and endophthalmitis).*

5. Required Measure 5 (Page 23). With respect to Required Measure 5 regarding the Appropriate Follow-Up Interval for Normal Colonoscopy in Average Risk Patients (NQF measure 0658), the Applicant notes that PVSC does not currently have the capacity to capture age and race/ethnicity for this measure. Capturing such demographics would require an extensive system overhaul. Accordingly, the Applicant proposes to report on the total number of patients at PVSC receiving screening colonoscopy and the percentage with the appropriate follow-up interval.

The Applicant appreciates your consideration of our suggested clarifications and modifications to certain of the proposed conditions in the Staff Report as explained above. Please contact Crystal Bloom, Esq. or me if you have any questions regarding this letter and our proposed changes. We would also make ourselves available to meet with you to discuss the proposed changes prior to the Public Health Council meeting on March 11, 2020.

Sincerely,



Andrew S. Levine

cc: DPH DoN  
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R. Rodman, Esq.  
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