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June 2, 2021

Determination of Need Program
Lara Szent-Gyorgyi, Director
Massachusetts Department of Public Health
250 Washington Street
Boston, MA 02108

RE: Mass General Brigham Incorporated – Multisite – 21012113-AS

Dear Director Szent-Gyorgyi:

On behalf of Shields Health Care Group, thank you for the opportunity to comment on the Mass General Brigham's (MGB) proposed market expansions into the communities of Westborough, Westwood and Woburn which are pending before the Department and subject to the Program's review and determination pursuant to 105 CMR 100.000, *Determination of Need*.

We understand pursuant to 105 CMR 100.405(D) and M.G.L. c. 111, § 25C(h), the Department has required an independent cost-analysis (ICA) to be conducted and the applicant and the Department have selected Charles River Associates (CRA) to perform the analysis. As you are acutely aware, Chapter 111, section 25C(h) of the Massachusetts General Laws require that all ICAs determine whether the proposed project is "consistent with the Commonwealth's efforts to meet the health care cost-containment goals established by the [health policy] commission", pursuant to the Health Policy Commission's statutory responsibilities set forth in Chapter 6D, section 5. In regulation, the ICA's mandate is implemented consistent with Determination of Need Factors (DoN) of 105 CMR 100.210, which require the Applicant to "make[s] a clear and convincing demonstration" that its proposal satisfies each cited factor.

We have, alongside Wellforce and UMass Memorial Health, submitted a letter dated June 2, 2021 outlining our concerns and respectfully request your review of our concerns. In addition, we ask the Department, CRA, the Health Policy Commission, appropriate and authorized public and quasi-public agencies and/or Constitutional Officers to:



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- 1) Review and evaluate the existing and contemplated payer contracts of MGB and its related affiliates and entities to ensure the use of restrictive clauses such as anti-tiering, anti-steering and gag clauses do not exist as these clauses can have a negative impact on consumer choice, access to care and deter enrollees from utilizing less costly sites of service; and
- 2) Review and evaluate if patients and consumers within the MGB patient panel face barriers to seeking care from rival providers through 'data blocking.' That is, attempts to impede or prevent the flow of patient's clinical data to providers outside and into the MGB health system as well as artificial barriers of EMR incompatibility causing impediments to the flow of data to and from other EMR systems. Such barriers can increase the burden and cost of health care to the consumer and the Commonwealth and impeded consumer choice.

As you are keenly aware, efforts like those described above undermine the value proposition put forth by MGB to the people and communities we all serve as they can lead to higher costs without a corresponding increase in the quality of care delivered. We can do better.

We sincerely appreciate the dedicated work of the Department and acknowledge the important mission the Determination of Need Program serves for all those who live, work and seek medical care in the Commonwealth. Thank you in advance for your time and attention to this important matter.

Sincerely,

Carmel A. Shields
Executive Vice President

Cc:
Torey McNamara, D.P.H.
Rebecca Rodman, D.P.H.
Mary Lou Sudders, Secretary of Health & Human Services
Maura Healey, Attorney General
David Seltz, Health Policy Commission