



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 Wellforce, Shields Health Care Group and UMass Memorial Health, we thank you for the Department's continued diligence relative to 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 that pursuant to 105 CMR 100.405(D) and M.G.L. c. 111, § 25C(h), the Department is requiring an independent cost-analysis (ICA) to be conducted and has selected Charles River Associates (CRA) to perform the analysis at the expense of the applicant, MGB. Chapter 111, section 25C(h) of the General Laws requires 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 of 105 CMR 100.210, which require the applicant to "make[s] a clear and convincing demonstration" that its proposal satisfies each cited factor including those that are subject of the ICA.

As stated in our previous public comments, we have concerns over the true independence of any analysis that is not performed by the Commonwealth's Health Policy Commission, and is instead selected and paid for by the Applicant. However, 105 CMR 100.405(D) clearly states that the Department, and not MGB, "shall develop the scope and terms of such analysis." As the regulation expressly states, "independence" is the driving principle of this analysis. As concerned Parties of Record, we strongly believe transparency and fairness are the cornerstones to establish such independence and we thank the Department for all its efforts to-date to ensure appropriate transparency and fairness. As the Department moves forward with the contracted ICA, we urge it to uphold the same attention to transparency and fairness as it relates to establishing the scope of the analysis, as well as any contact or communications between MGB and the

contracted agency, CRA, or any sub-contracted or affiliated parties thereunder. Therefore, we respectfully request that the Department institute certain safeguards to guarantee an impartial, objective and unbiased process and thereby ensure that the ICA is robust, fair and transparent for all parties.

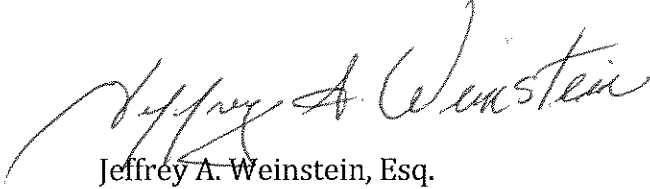
Specifically, we request the following:

- 1) That the proposed scope and questions for analysis as drafted by the Department are shared with all Parties of Record, including—and especially—the Health Policy Commission, the Center for Health Information and Analysis, and the Office of the Attorney General prior to submission to CRA and that the Department solicit public comment on the proposed scope and questions for analysis;
- 2) That the scope and methodology be made an express part of the ICA contract and that the contract be a three-party agreement between the Department, CRA and MGB that clearly delineates the role of each party, and not a bilateral contract solely between CRA and MGB;
- 3) That the Department create express contractual and protocol safeguards to ensure MGB or any affiliate is not afforded any contact or communication with Charles River Associates or any sub-contracted or affiliated parties of CRA without appropriate Department participation and monitoring,
- 4) That equal access and opportunities to communicate with or provide comment to CRA and its affiliates are provided to all Parties of Record; and
- 5) That the contract, scope, methodology and protocols be made publicly available on the Department’s Determination of Need website to ensure that the general public, as well as parties of record, have full and transparent access.

We believe that all parties engaged in the Determination of Need process, including and especially the Department, are aligned in preserving the meaningful independence of the ICA, as its independence is paramount to making a fair, reasonable, and unbiased determination on these projects of significant, statewide import. As 105 CMR 100.405(D) does not detail a process relative to the Department’s conducting of the ICA, and as no subregulatory guidelines have been established, we believe it is incumbent upon the Department to establish such processes and expectations publicly and in writing to all parties as soon as possible.

We sincerely appreciate the dedicated work of the Department and its staff and the important mission the Determination of Need Program serves for all the Commonwealth's residents and healthcare consumers. We thank you in advance for your attention to this important matter and look forward to our continued collaboration.

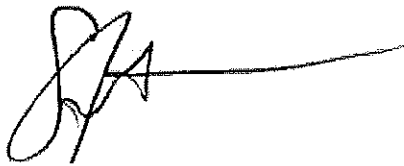
Thank you,



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