

November 19, 2018

**BARRETT
& SINGAL**

Via Email and Hand Delivery – Return Receipt Requested

Nora Mann, Esq., Program Director
Determination of Need Program
Department of Public Health
250 Washington Street
Boston, MA 02108

Re: Application Number – -18060613-AS
Medford Surgery Center, LLC Determination of Need Application for an
Ambulatory Surgery Center

Dear Attorney Mann:

On behalf of the Medford Surgery Center, LLC (“Applicant”), we write to thank the Department of Public Health (“Department”) for its thoughtful analysis of the proposed project to implement an Ambulatory Surgery Center.

Pursuant to 105 CMR 100.510(C), we write to submit written comments on behalf of the Applicant regarding certain language within the factor summaries, as well as certain of the proposed conditions contained in the “CHI Conditions to the DoN” section of the Department’s Staff Report to the Public Health Council (the “Report”) for the above-captioned application for a Determination of Need. Based on a discussion with Mr. Ben Wood, Director of the Office of Community Health Planning and Engagement at the Department regarding the Applicant’s Community Health Initiative (“CHI”), the Applicant seeks to clarify certain of the conditions contained in the Report as shown in both redlined (Exhibit A) and clean (Exhibit B) format. In support of the proposed changes, we offer the following comments.

1. Within the Report, the Factor 1 and 2 summary on page 3 contains the following language: “Upon approval of this project, Lawrence Memorial will cease using the 11 ORs and procedure rooms on its campus.” However, within the Determination of Need application, the Applicant stated “The proposed Ambulatory Surgery Center (“ASC”) will contain three (3) outpatient operating rooms and two (2) procedure rooms. In turn, Lawrence Memorial Hospital, which currently operates eleven (11) operating and procedure rooms, will surrender the right to operate three (3) operating rooms and three (3) procedure rooms once the ASC is operational. Lawrence Memorial Hospital also will temporarily suspend use of the remaining five (5) operating and procedure rooms while the hospital plans for their potential future use. Accordingly, MelroseWakefield Healthcare is seeking to preserve its right to operate five operating and procedure rooms on the Lawrence Memorial Hospital Campus. Overall, this will be a loss of capacity to

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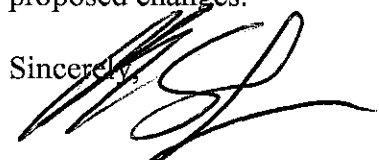
the system with the proposed ASC operating five operating and procedure rooms and MelroseWakefield Healthcare surrendering the right to operate six operating and procedure rooms.

2. With respect to Condition 4, given ongoing planning processes for MelroseWakefield Healthcare's 2019 community health needs assessment ("CHNA"), the Applicant is requesting to submit a plan to the Department of Public Health regarding conducting key informant interviews within two months of the Public Health Council vote on the Determination of Need or by February 12, 2019.
3. In regard to Condition 6, based on a discussion with Mr. Wood, the Applicant is seeking to revise the CHI timeline to align with MelroseWakefield Healthcare's 2019 CHNA process.

The Applicant appreciates your consideration of our suggested clarifications to certain of the proposed conditions as explained above and set forth in the attachment (which includes both a clean version of our proposed conditions and one that shows the changes to the conditions in the Report).

Please contact Crystal Bloom, Esq. or me if you have any questions regarding this letter and our proposed changes.

Sincerely,



Andrew S. Levine
Enclosure

cc: R. Rodman, Esq.
B. Wood
L. Conover
S. Sauter
D. Garbarino
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R. Fuller
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E. Dern
C. Whipple
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Attachment/Exhibit

A

Factor 1 and 2 Summary

The Applicant also predicts that volume for the proposed ASC will also originate from the Wellforce Care Plan's patient panel that resides in the ASC's primary service area (PSA). Upon approval of this project, Lawrence Memorial will ~~cease using the 11 ORs and procedure rooms on its campus.~~ surrender the right to operate three operating rooms and three procedure rooms (six of its eleven operating and procedure rooms) once the ASC is operational. Additionally, Lawrence Memorial Hospital also will temporarily suspend use of the remaining five (5) operating and procedure rooms while the hospital plans for their potential future use.

CHI Conditions to the DoN

1. Of the total required CHI contribution of \$733,778, \$177,941 will be directed to the CHI Statewide Initiative, \$533,824 will be dedicated to local approaches to the DoN Health Priorities (includes resources for evaluation of strategies), and \$22,013 is allowed to be used for administrative purposes to implement community engagement activities and management of CHI processes such as a issuing RFPs, etc. To comply with the Holder's obligation to contribute to the Statewide CHI Initiative, the Holder must submit a check for \$177,941 to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative). The Holder must submit the funds to HRiA within one month from the date of the Notice of Approval. The Holder must promptly notify DPH (CHI contact staff) when the payment has been made.
2. Funds will be distributed over a 2-5 year period subject to choice of Health Priority strategies and final Department approval.
3. Additional members of the CHI Advisory Committee will be recruited and a list of members and their affiliations provided to the Department. These members shall represent, at a minimum, local health, housing, planning and transportation, private business and community health centers. Further, to ensure that community members or representatives of small and less resourced community organizations are part of this recruitment effort, the Applicant will develop and submit additional plans for membership and leadership development for new members. A listing of new members, their affiliations and plans for leadership development will be submitted to the department within two months from the date of the Notice of Approval.
4. Either as part of initial plans for the 2019 Melrose Wakefield Community Health Needs Assessment or as a separate activity specific to the selection of Health Priority Strategies, key informant interviews with stakeholders from sectors representing the six DoN Health Priorities will be completed prior to selecting Health Priority Strategies for submittal to the Department. The Applicant will submit plans for these interviews to the Department within two ~~one~~ months from the date of the Notice of Approval.
5. All activities described in the Community Engagement Plan (attached) are considered conditions of approval.
6. CHI timeline (see Attachment 2).

Other Conditions

7. The Holder will report to the Department on its ongoing community engagement activities including publicity of and attendance at scheduled meetings and community events. Reporting on Community Advisory Group activities will include submittal of a Group Charter, plans for recruitment of members, and member participation in ongoing events.
 - a. The reporting under this Condition 7 shall commence on issuance of the Notice of DoN and shall continue, semi-annually until implementation of the proposed project.

Attachment 2

Timeline for CHI Activities: Melrose Wakefield HealthCare

- One-month post-approval: The Advisory Committee will begin meeting to review the CHNA priorities, assist with developing plans for additional member recruitment and leadership development and help determine the process of conducting key informant interviews required as conditions of approval.
- Two months post-approval: The Applicant will submit plans for the following: Plans for leadership development and of key informant interviews submitted to the Department. Plans and plans for the establishment of an Allocation Committee. determined.
- Two-months post-approval: New members recruited and list submitted to Department.
- Three to six months post-approval: The Applicant is conducting the community engagement activities outlined in the Community Engagement Plan Form.
- One to six months post-approval: MelroseWakefield Healthcare is working on its 2019 community health needs assessment.
- Three to six months post-approval: The Applicant will hire an evaluator to evaluate engagement activities, as well as CHI processes and projects funded through CHI monies.
- Five to six months post-approval: The Applicant will update the Department of Public Health on progress on MelroseWakefield Healthcare's 2019 community health needs assessment.
- Eight months post-approval: MelroseWakefield Healthcare's 2019 community health needs assessment is complete.
- Nine to ten months post-approval: The Advisory Committee reviews the 2019 community health needs assessment and selects the health priorities and strategies for the CHI.
- Ten months post-approval: The Applicant submits the Health Priorities and Strategies Form to the Department of Public Health for approval.
- Eleven months post-approval: The Advisory Committee conducts a conflict of interest process. Members without a conflict of interest will move on to the Allocation Committee.

- Eleven to twelve months post-approval: The Allocation Committee develops a solicitation process based on the selected Health Priorities and Strategies.
- Thirteen months post-approval: The request for proposal is released.
- Fourteen months post-approval: Bidders conferences are held on the request for proposal.
- Fifteen months post-approval: The request for proposal responses are due.
- Sixteen to Seventeen months post-approval: The Allocation Committee reviews the request for proposal responses.
- Seventeen months post-approval: Disbursement of the initial CHI funding.
- ~~Four months post-approval: The Advisory Committee has determined priorities for funding and the Allocation Committee chosen specific strategies. Melrose Wakefield Healthcare submits Health Priorities form to the Department for review.~~
- ~~5 months post-approval: The Allocation Committee develops RFP process and works to determine how to combine with ongoing community benefits efforts or grant opportunities.~~
- ~~5 months post-approval: Allocation Committee chooses an evaluator to assist with RFP development and to serve as a technical resource for grantees and develop/implement the evaluation plan.~~
- ~~6-7 months post-approval: RFP for funding released.~~
- ~~7 months post-approval: Bidders conferences held.~~
- ~~8-9 months post-approval: responses to RFPS due.~~
- ~~10 months post-approval: funding decisions made.~~
- Ongoing: evaluation, monitoring and reporting.

Attachment/Exhibit

B

Factor 1 and 2 Summary

The Applicant also predicts that volume for the proposed ASC will also originate from the Wellforce Care Plan's patient panel that resides in the ASC's primary service area (PSA). Upon approval of this project, Lawrence Memorial will surrender the right to operate three operating rooms and three procedure rooms (six of its eleven operating and procedure rooms) once the ASC is operational. Additionally, Lawrence Memorial Hospital also will temporarily suspend use of the remaining five (5) operating and procedure rooms while the hospital plans for their potential future use.

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