

## Memorandum of Understanding

This Memorandum of Understanding (“Memorandum”) is made and entered into on this 30th day of December 2022, by, between, and among the Commonwealth of Massachusetts, through Attorney General Maura Healey (the “AGO”), and Beth Israel Lahey Health (“BILH”) concerning the closure of the North Shore Birth Center.

1. The AGO has reviewed the closure of the North Shore Birth Center as it relates to BILH’s obligations set forth in the November 29, 2018 Assurance of Discontinuance (“AOD”) executed by BILH and the AGO in connection with the merger that formed the BILH system.
2. In paragraph 91 of the AOD, BILH agrees to “maintain access for the communities served by BILH Hospitals to substantially similar clinical services as before the Closing Date” through March 1, 2027 (the “AOD Access Period”).
3. This Memorandum reflects the agreement of the AGO and BILH as to how BILH will maintain access to substantially similar services as were previously provided at the birth center.
4. Compliance with this Memorandum will be monitored by the AOD’s third-party monitor (the “Monitor”).
5. The Monitor’s findings as to BILH’s compliance with this Memorandum will be shared with the AGO as part of the Monitor’s annual report pursuant to AOD paragraph 152. In its annual reports, the Monitor will include sufficient information for the AGO to assess compliance with this Memorandum.
6. BILH agrees to the following:
  - a. Engaging a third party acceptable to the AGO to perform a systematic review of the Beverly Hospital maternity program with input from external experts on maternal health, midwifery, and the birth center model of care. The review shall include such data elements as (a) patient safety data and clinical outcomes, including rates of cesarean section births, vaginal birth after cesarean section, obstetric hemorrhage, and other measures, stratified by patient race and ethnicity, if available, (b) laboring patients’ access to obstetricians and nurse midwives, including the frequency with which a provider type is requested but unavailable; and (c) patient satisfaction with their birth experience and providers’ respect for their birth plan. BILH will cause Beverly Hospital to implement policies and procedures consistent with the review’s findings to improve access to high-quality midwifery care and low-intervention birthing services for patients in the Beverly Hospital service area.
    - i. BILH will submit a report on findings from the review to the Monitor within one year of the Memorandum date.
    - ii. BILH will submit an annual report to the Monitor beginning two years after the Memorandum date and continuing throughout the AOD Access

Period documenting its progress in implementing responsive changes to Beverly Hospital policies and procedures, where applicable.

- iii. The Monitor may request additional information from BILH on the provision of midwifery care and low-intervention birth services as needed to audit the review and implementation reports.
- b. Ensuring that in 2023 Beverly Hospital installs a birthing tub and trains all obstetricians, labor and delivery nurses, and certified nurse midwives on its use within 4 months of delivery of the tub.
  - i. BILH will report to the Monitor when the birthing tub is operational.
  - ii. BILH will report to the Monitor within one year of the Memorandum the monthly utilization of the birthing tub and the number of requests for a water birth that are unfulfilled because the tub is not available.
- c. Causing Beverly Hospital to offer a commercially reasonable lease of the building, furnishings, and equipment of the North Shore Birth Center to an independent certified nurse midwifery practice for a period of three years while community organizations work to create, expand, or reopen birth center services at a new location. The lease offer shall remain open for at least 12 months following the date of the Memorandum (or, if the space is still vacant at 12 months, up to 18 months for a prospective lessee seeking to open a new freestanding birth center in the space provided that such a lessee gives notice to BILH within the initial 12-month period of its interest, including a written plan to meet each DPH licensure requirement for a freestanding birth center). The lessee may use the space as a new freestanding birth center or as an outpatient midwifery clinic. To ensure that such a lease will be viable, BILH will ensure that Beverly Hospital agrees to enter into a hospital transfer agreement with any lessee operating a freestanding birth center in the former North Shore Birth Center space (provided all other DPH licensure requirements are met for the lessee to operate as a freestanding birth center). BILH will also ensure that Beverly Hospital agrees to work in good faith with the lessee to help identify a medical director on the hospital staff or to process expeditiously an application from an external medical director for hospital privileges.
  - i. BILH will provide to the Monitor a copy of the lease offer and copies of any lease applications.
  - ii. The Monitor may interview the BILH/Beverly Hospital staff involved with the lease process, the lessee-hospital transfer agreement, and medical director selection or application for hospital privileges to ensure compliance with the lease commitments.
- d. Providing \$1.5 million in financial support to one or more community organizations to create, expand, or reopen birth centers licensed by DPH during the AOD Access Period. This funding will not count towards other financial obligations in the AOD (such as the \$5 million strategic investment to expand access to needed health care services for communities of color and low-income communities).

- i. BILH will report all grant payments (including the recipient and the amount) to the Monitor.
  - ii. The Monitor will identify the grant recipients and amounts in its report pursuant to AOD paragraph 152.
- e. Establishing a BILH system-wide Maternal Quality Council – with representation across hospitals and including physicians, nurses, midwives, and allied health professionals – to improve patient experience, quality and safety, health equity, and population health outcomes for birthing people across the Eastern Massachusetts region. The Council will actively incorporate input from Patient and Family Advisory Councils and public health experts, and will share best practices regarding prenatal, perinatal/intrapartum, and post-partum care across community and academic sites of care. The Council will meet at least once per quarter and publish an annual report summarizing its activities.
  - i. BILH will submit Council meeting agendas, minutes, and annual reports to the Monitor throughout the AOD Access Period.
- f. Expanding the midwifery services offered by Beverly Hospital and the Northeast Medical Practice. BILH will hire at least three additional non- OB/GYN clinicians to support maternal care within those practices by the end of the AOD Access Period, including at least one additional midwife at the Northeast Medical Practice Salem location within one year of the MOU date. At the Lynn practice, Northeast Medical Practice will work to expand its Spanish language service offerings within one year of the MOU date. If the third-party review of Beverly Hospital’s maternity care described in Section 6(a) of this Memorandum identifies unmet needs for midwives to support labor and delivery at Beverly Hospital, BILH will hire at least two additional midwives to work in labor and delivery at Beverly Hospital by the end of the AOD Access Period.
  - i. BILH will provide copies of the Beverly Hospital and Northeast Medical Practice job postings and hiring status to the Monitor.
  - ii. BILH will report to the Monitor the non-English language capabilities of clinicians in both the Lynn and Salem practices throughout the AOD Access Period.
- g. Ensuring that Beverly Hospital enhances the capacity of its OB-GYN providers to identify and address post-partum mental health and substance use disorders, including training for obstetricians, midwives, and pediatricians on access and encouraging utilization of the Massachusetts Child Psychiatry Access Program (MCPAP) for Moms.
  - i. BILH will report annually throughout the AOD Access Period to the Monitor on its efforts to improve care for patients with post-partum mental health issues and substance use disorder.
- h. Causing Beverly Hospital to establish a Maternal-Newborn Patient and Family Advisory Council (PFAC) to connect maternal and newborn caregivers with patients and family members. The Maternal-Newborn PFAC will meet at least once per quarter.

- i. BILH will report annually throughout the AOD Access Period to the Monitor on the membership of the Maternal-Newborn PFAC.
  - ii. BILH will submit the Maternal-Newborn PFAC annual report to the Monitor throughout the AOD Access Period.
7. Provided that BILH complies with the obligations in this Memorandum, the AGO will not take enforcement action under paragraph 91 of the AOD on the grounds of the closure of the North Shore Birth Center.
8. If BILH does not comply with the terms of this Memorandum, any enforcement action may be brought by the AGO under the AOD.
9. Notices to be sent pursuant to this Memorandum shall be sent as follows:

To the AGO:

Sandra Wolitzky  
Deputy Division Chief, Health Care Division  
Office of Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
[sandra.wolitzky@mass.gov](mailto:sandra.wolitzky@mass.gov)

To BILH:

Jamie Katz  
General Counsel  
Beth Israel Lahey Health, Inc.  
20 University Road, Suite 700  
Cambridge, MA 02138  
[Jamie.Katz@bilh.org](mailto:Jamie.Katz@bilh.org)

Agreed:

<p>BETH ISRAEL LAHEY HEALTH</p> <p><i>Jamie Katz</i></p> <p><u>Jamie Katz, General Council</u></p> <p>Dated: <u>December 30, 2022</u></p>	<p>COMMONWEALTH OF MASSACHUETTS MAURA HEALEY ATTORNEY GENERAL</p> <p><i>Sandra Wolitzky</i></p> <p><u>Sandra Wolitzky, Deputy Division Chief</u></p> <p>Dated: <u>December 30, 2022</u></p>
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