PUBLIC HEALTH COUNCIL

A regular meeting of the Public Health Council of the Massachusetts Department of Public Health was held on Tuesday, April 18, 2006, 2006, 10:00 a.m., at the China Trade Center, 2 Boylston Street, Daley Conference Room, Boston, Massachusetts. Public Health Council Members present were: Chair Paul J. Cote, Jr., Dr. Clifford Askinazi, Ms. Phyllis Cudmore, Mr. Manthala George, Jr., Ms. Maureen Pompeo, Mr. Albert Sherman, Ms. Janet Slemenda, Mr. Gaylord Thayer, Jr. and Dr.Martin Williams. Also in attendance was Attorney Susan Stein, First Deputy General Counsel; standing in for General Counsel Donna Levin whom was absent.

Chair Cote announced that notices of the meeting had been filed with the Secretary of the Commonwealth and the Executive Office of Administration and Finance.

The following members of the staff appeared before the Council to discuss and advise on matters pertaining to their particular interests: Dr. Paul Dreyer, Associate Commissioner, Center for Quality Assurance and Control; Ms. Joan Gorga, Acting Director, and Mr. Jere Page, Senior Analyst, Determination of Need Program.

RECORDS OF THE PUBLIC HEALTH COUNCIL MEETINGS OF DECEMBER 20, 2005, JANUARY 24, 2006 AND FEBRUARY 21, 2006:

Records of the Public Health Council Meetings of December 20, 2005, January 24, 2006 and February 21, 2006 were presented to the Council for approval. After consideration, upon motion made and duly seconded, it was voted unanimously to approve the **Records of the Public Health Council Meetings of December 20, 2005, January 24, 2006 and February 21, 2006** as presented.

"INFORMATIONAL BRIEFING ON POSITRON EMISSION TOMOGRAPHY (PET)", BY JOAN GORGA, ACTING DIRECTOR, DETERMINATION OF NEED PROGRAM:

Ms. Gorga made a slide presentation to the Council on Positron Emission Tomography (PET). Ms. Gorga spoke about PET: "What distinguishes it from other technologies and what makes it a valuable diagnostic service in health care today particularly in combination with CT scanning." It was noted that CT scanning is no longer on the list of innovative services and new technologies and expansion within a CT service is no longer considered a substantial change in service by the DoN program. Some excerpts from the presentation follow:

- CT locates masses in the body, but cannot determine if they are cancerous, while the PET can detect cancerous cells, but cannot exactly pinpoint their location. The current medical literature indicates that the fusion and correlation of these two imaging modalities has been shown to result in improved surgical planning, assessment of therapeutic response, and radiotherapy planning.

- PET scanning is a molecular imaging technique that detects chemical and metabolic changes in tissue at the cellular level – often before anatomic and structural changes (detected by conventional imaging such as X-ray) have had time to develop.

- PET allows the whole patient to be imaged at once permitting the identification of distant metastasis. This could be crucial in the development of treatment plans which could focus on either surgery or chemotherapy or a combination.

- Gamma radiation is produced from the positron-emitting fluorine and is detected by the PET scanner. The scanner records the signals that the tracer emits as it journeys through the body and is metabolized in targeted organs and the computer reassembles the signals into images.

- PET images and CT images are often fused to show metabolic function in an exact anatomic location. With a PET/CT scanner the images are fused automatically for a more accurate picture.

- The CT locates masses in the body but cannot determine if they are cancerous, while the PET can detect cancerous cells but cannot exactly pinpoint their location. The combination machine uses the capabilities of both diagnostic tools.

- PET is useful in diagnosing certain cancers, cardiovascular diseases and neurological diseases. The diseases for which PET imaging is commonly used are cancer, cardiology, epilepsy and Alzheimer's disease.

- In cancer, PET is used to locate distant metastases which can alter treatment planning from surgical intervention to chemotherapy. It is used to determine the full extent of disease in tumor staging or grading. It is used to differentiate tumors as benign or malignant thereby avoiding surgical biopsy when the PET scan is negative. It is also used to differentiate tumor recurrence from other tissue growth which might occur as a result of radiation or surgery.

- In cardiology, Pet is used to determine the viability of the tissue in the heart which is important in patients who may have suffered a previous heart attack and are now being considered as candidates for corrective heart surgery. PET can also be used in cardiac perfusion to measure the blood flow and pinpoint areas of decreased blood flow caused by blockages.

- In epilepsy treatment, PET is used to detect the areas of the brain causing epileptic seizures without the use of surgery and to determine if surgery is a treatment option.

- In Alzheimer's disease, PET is used to supply important diagnostic information and confirm an Alzheimer's diagnosis. It is used to illustrate areas where brain activity differs from the norm.

- Lung Cancer was one of the first uses of PET approved for reimbursement in the Medicare program and was approved in 1998…Use of PET scanning for lymphoma was approved for reimbursement by the Medicare program in 2001. The Medicare program approved PET scanning for breast cancer in 2002 and a Medicare recipient is eligible for reimbursement for a PET scan after each change in treatment. Alzheimer 's disease patients was included in Medicare reimbursement in 2004, however, coverage is limited to scans intended to differentiate between suspected Alzheimer's disease and other forms of dementias. PET scans for Parkinson's disease, renal cysts and Chrohn's disease are not presently included in Medicare coverage but can be a valuable tool in diagnosis and treatment of these pathologies.

- Every year since 2000, new applications of PET have been approved for reimbursement by the Medicare program. The most recent approvals have made PET scans available to patients with other cancers such as ovarian, pancreatic and brain cancer.

No Vote/Information only

COMPLIANCE MEMORANDUM: PREVIOUSLY APPROVED DoN PROJECT NO. 4-3A58 OF LAHEY CLINIC HOSPITAL, INC. – REQUEST FOR SIGNIFICANT CHANGE TO INCREASE THE PROJECT'S MAXIMUM CAPITAL EXPENDITURE AND GROSS SQUARE FOOTAGE:

Ms. Joan Gorga, Acting Program Director, Determination of Need Program presented previously approved Project No. 4-3A58 of Lahey Clinic Hospital to the Council, "The applicant requests significant changes that include increasing the maximum capital expenditure (MCE) from $55,346 (July 2003 dollars) to $87,288,915 (February 2006 dollars) and the gross square footage (GSF) from 110,471 to 200,105…The requested increase in MCE is the result of the requested increases in both dollars required for renovation and those requested for new construction. The total dollar increase in the MCE requested is 30% while the increase in renovation costs is 85% and the increase in new construction costs is 26%. The holder has indicated that many items in the budget, for example land development, planning and development and major movable equipment have not increased. Also, the holder has emphasized that the overall expansion of the project has occurred with a lower cost per GSF due to Lahey's efforts to contain cost and implement a variety of cost savings. While the increase requested for the gsf for the project is 81%, the increase in the MCE of 30% is significantly less. Staff notes that the requested costs per GSF for new construction and for renovation are less than the Marshall and Swift allowable cost/GSF for new construction of $428.59/GSF cited at the time of the approval. Staff had determined whether the requested changes in gsf and MCE were reasonable in light of past decisions, were not foreseeable at the time the application was filed and were beyond the holder's control. Consistent with Council's past decisions, Staff finds that the increase in the GSF and MCE could not have been reasonably foreseen and were not reasonably within the control of the holder."

1. After consideration, upon motion made and duly seconded, it was voted unanimously to approve the **Request for a significant change on Previously Approved DoN Project No. 4-3A58 of Lahey Clinic Hospital, Inc.,** based on staff findings. This amendment approval provides for increase in the MCE to $87,288,915 (February 2006 dollars) and increase in

gsf to 200,105. This amendment is subject to the following conditions:

2. The approved GSF for this project shall be 200,105 including 159,591 GSF for new construction and 40,514 GSF for renovation.

3. The holder shall contribute 100.0% equity ($87,288,915 February 2006 dollars) toward the final approved MCE.

4. All other conditions attached to the original and amended approval of this project shall remain in effect.

CATEGORY 1 APPLICATIONS:

PROJECT APPLICATION NO. 2-1468 OF QUABOAG ON THE COMMON TO RENOVATE A 141 LEVEL II/III BED NURSING FACILITY AND CONSTRUCT AN ON-SITE SEWAGE TREATMENT SYSTEM:

Mr. Bernard Plovnick, Consulting Analyst, Determination of Need Program, presented the Quaboag project to the Council, "He noted that G/F Massachusetts, Inc. d/b/a Quaboag on the Common is a nonprofit skilled nursing facility located at 47 East Main Street, West Brookfield, MA 01585. Originally built in 1850, the two-story building has been licensed as a nursing facility since 1968 and currently operates 98 Level II and 43 Level III beds. The proposed project, filed in January of 2004, seeks a Determination of Need for substantial renovation of the existing facility, notably the construction of an on-site sewage treatment system to bring Quaboag into compliance with Department of Environmental Protection ("DEP") regulations. In addition, the Applicant proposes to undertake minor interior renovations encompassing 59,925 gross square feet (GSF)."

Mr. Plovnick noted further that the William H. Jankins Ten Taxpayer Group requested a public hearing, which was held on February 8, 2006 at West Brookfield Town Hall, 2 East Main Street, West Brookfield, MA. The TTG was not in attendance at the public hearing nor did it submit written comments on this application."

After consideration, upon motion made and duly seconded, it was voted unanimously to approve **Project Application No.2-1468 of Quaboag on the Common.** As approved, the application provides for construction of an on-site sewage treatment system and renovations to the existing facility. This Determination is subject to the following conditions:

1. The Applicant shall accept the maximum capital expenditure of $3,271,501 (January 2004 dollars) as the final cost figure except for those increases allowed pursuant to 105 CMR 100.751 and 100.752.

2. The total approved gross square feet ("GSF") for this project is 59,925 GSF of renovations to the existing facility.

3. The Applicant shall apply for a waiver from the Division of Health Care Quality for a unit size in excess of the 41-bed limit.

4. The Applicant shall maintain formal affiliation agreements with at least one local acute care hospital and one local home care corporation that address provision for respite services.

5. The Applicant shall, at the time of licensure, maintain Medicare certification for its eligible beds.

6. The Applicant shall establish a plan to protect the privacy, health and safety of the residents of the facility during the construction process.

7. Upon implementation of the project, any assets such as land, building improvements, or equipment that are either destroyed or no longer used for patient care, shall not be claimed for reimbursement for publicly aided patients.

8. The Department shall reserve the right to conduct a review of the financial feasibility of the project based on the Division of Health Care Finance and Policy's established rates of reimbursement for Medicaid patients at the time final maximum capital expenditures or any adjustments to the final maximum capital expenditure are submitted to the Determination of Need Program for approval in the event that such expenditures exceed the approved maximum capital expenditure. The Applicant shall submit a revised Factor Six (Financial Schedules) upon request by the Department. The Applicant is advised that an increase in equity may be necessary to assure the financial feasibility of the project.

Staff's recommendation is based on the following findings:

1. G/F Massachusetts, Inc. d/b/a Quaboag on the Common seeks a Determination of Need for substantial capital to undertake interior renovations to the existing facility located at 47 South Main Street, West Brookfield, Massachusetts and to attain compliance with Department of Environmental Protection regulations with the construction of an on-site sewage treatment system.

2. The health planning process for this project was satisfactory.

3. Consistent with the May, 1993 DPH/DoN Guidelines for Nursing Facility Replacement and Renovation Guidelines, the Applicant has demonstrated need for substantial renovations to undertake site improvements, exterior building improvements, and interior renovations.

4.

The meeting adjourned at 11:15 a.m.

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Paul J. Cote, Jr.
Chair

LMH/lmh