



SENT ELECTONRICALLY TO:

DPH.DON@massmail.state.ma.us

September 2, 2022

Elizabeth Kelley, Director
Bureau of Health Care Safety & Quality
ATTN: Determination of Need (DON) Program
Department of Public Health
250 Washington Street
Boston, MA 02108

RE: Determination of Need (DON) Application # UMMHC 22042514-HE
Applicant: UMass Memorial Health Care, Inc.

Dear Director Kelley,

This correspondence serves to provide written testimony regarding the above-referenced pending Determination of Need (DON) application. I am submitting this testimony on behalf of the Mass General Brigham Ten Taxpayer Group (TTG) which formally registered as such to secure status as a party of record to this application and as the designated representative for the same.

Our interest and purpose in testifying is neither to challenge the merits of the UMass Memorial DON application nor is it to validate the concerns previously raised in writing by other providers in the Central MA market. Instead, our purpose in providing testimony is to respectfully request that the Department of Public Health (DPH) and other regulatory agencies maintain consistency and fairness in the DON regulatory review process.

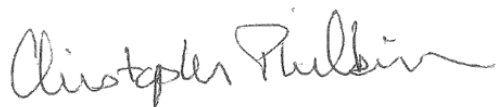
Mass General Brigham is acutely aware of the access and capacity challenges facing hospital and health systems across the Commonwealth. These challenges existed prior to the COVID-19 pandemic and have certainly been exacerbated since. As part of a larger strategic effort to help address the capacity constraints within our own system, Mass General Brigham concurrently submitted three (3) separate DON applications to DPH in January 2021 for a 78-bed inpatient expansion at the Brigham & Women's Faulkner Hospital; a patient tower at MGH that included 92 net new inpatient beds; and three (3) outpatient integrated care facilities located in the greater Boston and Metro West region. All three of those DON applications were required by DPH to undergo an extensive and rigorous independent cost analysis (ICA). As parties of record, the

Health Policy Commission also conducted its own review of our three (3) DON applications and the MA Attorney General submitted written comments during the regulatory review process as well. Several months after our three (3) DON applications were submitted last year, Boston Children's Hospital filed a DON application on August 10, 2021 that includes an outpatient facility in Needham. Despite facing no recorded opposition nor any request for an ICA, the Boston Children's Hospital was also ordered by DPH to undergo an ICA and that application is still pending.

We readily acknowledge that an ICA is not warranted in all instances. In fact, an ICA should only be required where necessary and appropriate as it invariably adds considerable time and expense to the regulatory review process. However, an independent analysis by a third-party, objective, and qualified health care economist can be a useful tool in the DON process, particularly when evaluating the relative merits or claims of a project proponent against competing capacity questions and cost concerns that are relevant factors for review. Accordingly, an ICA would certainly seem entirely appropriate in this case. Nonetheless, DPH has declined to require the UMass Memorial DON application undergo an ICA despite very recent precedent for requiring the same of other providers for similar projects.

In our view, the DON regulatory review process is intended to ensure that the best interests of patients and health care consumers are being carefully considered when significant capital investments are being proposed. It was not intended to protect providers from unwanted competition nor was it designed for political expediency. The integrity of the DON regulatory review process is fundamentally threatened when a different standard is applied to different applicants. Accordingly, we would kindly ask DPH to reconsider its decision to forego an ICA on the UMass Memorial DON application in order to ensure fairness and consistency in the regulatory review process. Thank you for your thoughtful attention to this testimony.

Best,

A handwritten signature in black ink that reads "Christopher Philbin". The signature is written in a cursive, flowing style.

Christopher R. Philbin, Esq.
Vice-President, Office of Government Affairs

VIA EMAIL DPH.DON@MassMail.State.MA.US

Massachusetts Department of Public Health

Determination of Need Program

Attn: DoN Support

67 Forest Street

Marlborough, MA 01752

ATTN: Elizabeth D. Kelley, MBA, MPH, Director, Bureau of Health Care Safety and Quality

Re: UMass Memorial Medical Center - DoN Application #UMMHC-22042514

Dear Ms. Kelley:

I am writing to respectfully request that the Department of Public Health recommends approval of UMass Memorial Medical Center's application to add 91 new inpatient beds.

These new inpatient beds are necessary to address a severe overcrowding crisis that stems from the shortage of inpatient beds in this region. Central Massachusetts has 20 percent fewer beds per-1,000 residents than Western Massachusetts, 15% less than Eastern Massachusetts, and is below the national average. The Medical Center is legislatively mandated to provide "highly specialized" services not available at other local hospitals and to be the safety net for "indigent" patients in this region. Due to this public mission and the Medical Center's status as the only academic medical center outside of Boston, its services are in extremely high demand. But the bed shortage impedes its ability to fully achieve the mission.

The Medical Center has the second busiest emergency department in the state and, because it offers a range of high acuity services unavailable elsewhere in Central Massachusetts, it also consistently receives transfer requests from community hospitals for high acuity patients. For example, it has the region's only Level 1 adult and pediatric trauma center, only Level 3 NICU, Pediatric ED, Pediatric ICU, liver and kidney transplant center, comprehensive advanced interventional stroke and cardiovascular center, bone marrow transplant and CAR-T cell therapy program.

Unfortunately, the one thing the Medical Center lacks is enough beds to meet the demand. Every day approximately 50 to 70 newly admitted patients must "board" in its emergency department for an average of 17 hours before getting a bed (on top of the first 2 hours post-admission, which do not count as "boarding"). And from February 2021 through February 2022, it was forced to decline approximately 3,500 transfer requests, equivalent to 43 percent of such requests.

This is an urgent public health challenge and I'm impressed with the solution that the Medical Center has proposed. Safety net systems like UMass Memorial Health face fiscal challenges associated with low Medicaid reimbursement rates that restrict their ability to undertake capital investments sufficient to meet demand for services. The Medical Center's innovative proposal overcomes this hurdle by utilizing a former nursing home adjacent to the University campus for 72 of the proposed beds and by adding the other 19 within the existing footprint of the Memorial

campus. This is far lower cost than the usual expansion strategy used by most hospitals of building a new bed tower.

Central Massachusetts residents deserve the same local access to healthcare as their peers. By substantially narrowing the per-capita bed gap, this proposal will better ensure that local residents are able to access high acuity care closer to home. I therefore respectfully request that DPH recommends approval.

Thank you for your consideration.

Sincerely,

Anne M. Gobi
State Senator



Central Massachusetts Agency on Aging, Inc.

Re: UMass Memorial Medical Center - DoN Application #UMMHC-22042514

Dear Ms. Kelley:

The Central Massachusetts Agency on Aging (CMAA) strongly supports UMass Memorial Medical Center's proposal to add 91 inpatient beds and hope that DPH will approve this application.

Since 1974, CMAA has been the leading source of information and resources for older adults and caregivers in Central Massachusetts, connecting individuals to the services they need, such as nutrition, transportation, legal assistance, crisis intervention and other services to older persons. We are charged with the responsibility to plan and support social services and nutrition services for seniors in 61 cities and towns across Worcester and Middlesex Counties under the Older Americans Act. CMAA's mission is to enhance the quality of life for older persons and caregivers. The concept of quality of life certainly includes locally accessible healthcare, including inpatient care when needed.

We are disturbed that our service area – Central Massachusetts – has such a low proportion of inpatient beds compared to Western Mass and Eastern Mass as you've heard from others tonight. We understand that Central Mass has 20% fewer beds per-1,000 people than Western Mass & 15% fewer than Eastern Mass. Even more disturbing is data about how this bed shortage impacts waiting times in the emergency department and how often overcrowding requires UMass Memorial to decline patient transfer requests from community hospitals. UMass Memorial reports that approximately 50 to 70 patients *daily* are stuck in the ER *after* being admitted to the hospital, while they wait for a bed to open, and that those patients face an average post-admission boarding time of 17 hours. In addition, the Medical Center had to decline well over 3,000 transfer requests from community hospitals in just one year due to overcrowding. It's critical to go behind these numbers and think about the people impacted. Oftentimes they are the seniors and caregivers that our agency serves.

UMass Memorial has been an active and valuable partner in the local community, including in the field of geriatrics. As the state's only Academic Medical Center outside of Boston, it is the sole local provider of a wide variety of highly complex care. It provides a huge benefit to the Central Mass community. And, to put it simply, its application to add beds amounts to a request that it be allowed to **do more** at a time when the local community **needs more**. As challenging and frustrating as the bed shortage is, when patients finally get into a bed, they receive excellent care from highly dedicated professionals. Approving this application will enable those professionals to apply their skills to address an obvious and urgent public health need.

Thank you for this opportunity to testify. If you have any questions, I can be reached at either ebelding@seniorconnection.org or at 508-852-5539. Have a great day.

Sincerely,

Ethan Belding, Vice President of Planning and Research

September 1st, 2022

Ashburnham
Ashby
Auburn
Ayer
Barre
Bellingham
Berlin
Blackstone
Bolton
Boylston
Brookfield
Charlton
Clinton
Douglas
Dudley
East Brookfield
Fitchburg
Franklin
Gardner
Grafton
Groton
Hardwick
Holden
Hopedale
Hubbardston
Lancaster
Leicester
Leominster
Lunenburg
Medway
Mendon
Milford
Millbury
Millville
New Braintree
North Brookfield
Northbridge
Oakham
Oxford
Paxton
Pepperell
Princeton
Rutland
Shirley
Shrewsbury
Southbridge
Spencer
Sterling
Sturbridge
Sutton
Templeton
Townsend
Upton
Uxbridge
Warren
Webster
West Boylston
West Brookfield
Westminster
Winchendon
Worcester



September 2, 2022

Via E-Mail (DPH.DON@massmail.state.ma.us)

Elizabeth Kelley, Director
Bureau of Healthcare Safety and Quality
Determination of Need Program
Massachusetts Department of Public Health
67 Forest Street
Marlborough, MA 01752

Re: UMass Memorial Health Care, Inc.
DPH -DoN #UMMHC-22042514-HE

Dear Director Kelley:

The Massachusetts Association of Health Plans (MAHP) is a trade association which represents 16 health plans and 2 behavioral health organizations that provide health care coverage to approximately 3 million Massachusetts residents. Today, I submit this Public Comment which requests the Department of Public Health (DPH) order an independent cost analysis (ICA) concerning the UMass Memorial Health Care, Inc. (UMMHC) Determination of Need (DoN) Application #UMMHC-22042514-HE, filed on July 5, 2022, for a Substantial Capital Expenditure and a Substantial Change in Service. This position is supported by many of my members.

As identified in UMMHC's DoN Application, the project entails the renovation of a six-story building adjacent to UMMHC's University Campus that will contain 72 additional medical/surgical (M/S) beds, one additional computed tomography (CT) unit, and shell space for future build out to accommodate clinical services; the addition of 19 M/S beds on UMMHC's Memorial Campus; and, renovation projects to improve the existing services and facilities at UMMHC's Memorial Campus (the Proposed Project). The total value of the Proposed Project based on the maximum capital expenditure is \$143,242,167.

Two registered ten taxpayer groups (TTGs) filed comments and requests for DPH to order an ICA to determine if the Proposed Project is consistent with the Commonwealth's efforts to meet the health care cost-containment goals. One TTG, Saint Vincent Hospital (SVH), opined in its written Public Comment to DPH, dated August 3, 2022, that "[a]dding the New Beds to UMMHC would further increase the Applicant's dominant market share, strengthen its near-monopoly pricing power, and weaken the financial viability of local lower-cost health care providers...Until all of the beds in Central Massachusetts are open and reach a certain critical occupancy, no bed expansions should be approved." SVH further posits that the UMass Emergency Department sites to be serviced by the new 72-bed tower are similarly distanced to SVH, which has the capacity to accommodate patient transfers. By adding capacity to UMass, the region may experience increases to cost of care. According to SVH, for

commercial payers, UMass is 9% above Massachusetts' market average and 14% above SVH's costs. For DRGs of service lines in UMass' filing, UMass is 14-17% more expensive than SVH for Medicare FFS. According to SVH, prior to its 2021 acquisition of Harrington Hospital (Harrington), UMass held the highest market share at 50.1%. UMass' acquisition of Harrington increased its market share by 1.4% to 51.5%. With the acquisition, other hospitals lost market share while SVH's market share stayed at 15.8%. Also notable, SVH represents that increases in regional costs will impact patients' ability to obtain affordable healthcare as 59.3% are under 400% FPL and 38.2% are above 400% FPL.

MAHP has long supported the DoN process as the program plays an important role in ensuring that proposed transactions are fulfilling a real community or delivery system need and "will meaningfully contribute to the Commonwealth's goals for cost containment, improved health outcomes, and delivery system transformation." See 105 CMR 100.210(A)(2)(a). Massachusetts' health care cost growth benchmark was established as part of the state's comprehensive health care reform in 2012. The statewide target for sustainable growth in total health care spending was 3.6% for the first five years, followed by 3.1% for 2018. According to the Health Policy Commission's (HPC's) 2021 Annual Health Care Cost Trends Report, the state's health care spending has grown an average of 3.59% since the inception of the benchmark. The most recent data, from 2018-2019, reveals that the state's preliminary health care spending growth was 4.3%.

As stewards of the health care dollar for individual consumers, employers, and government programs, MAHP member plans continue to aggressively work to address drivers of health care costs. We have long held that consolidations, mergers, acquisitions, or expansions in the health care market must result in lower costs, improved quality, and increased equitable access to care. By ordering an ICA, DPH can ensure the citizens of the Commonwealth that the Proposed Project, as required by law, will fill a real community or delivery system need and is not duplicative of existing services that will result in increased cost of care.

We appreciate your attention to this matter and would be pleased to meet with you or members of your staff to discuss our concerns further.

Sincerely,



Lora M. Pellegrini
President & CEO
Massachusetts Association of Health Plans



One Federal Street, 5th Floor, Boston, MA 02110

Phone: 617.350.7279 HelpLine: 800.272.4232

hcfama.org

September 2, 2022

Determination of Need Program
Massachusetts Department of Public Health
250 Washington Street
Boston, MA 02108

Re: UMass Memorial Medical Health Care, Inc. Determination of Need (DoN) Application #22042514-HE

On behalf of Health Care For All (HCFA), thank you for the opportunity to submit written comments regarding the UMass Memorial Medical Center (UMMMC) DoN Application 22042514, as filed on July 5, 2022 for the renovation of a 6-story building that will contain an additional 72 medical/surgical beds, one additional computed tomography unit, and an additional 19 medical surgical beds plus other renovation projects to further develop the existing services on UMMC's Memorial campus.

HCFA is a statewide organization that advocates for health justice in Massachusetts by working to promote health equity and ensure coverage and access for all. We are writing to urge the Department of Public Health to require that a cost analysis be completed to examine whether the Proposed Project meets the Commonwealth's cost containment goals. We know that the process dictates an Independent Cost Analysis, however we have concerns about the objectivity of these analyses. Instead, we request that the Health Policy Commission (HPC) conduct a cost analysis of this project.

As a consumer advocacy organization, we are concerned with how the state's rising health care costs are straining the budgets of Massachusetts families and individuals. We believe it is useful to have an objective cost analysis to understand the broader cost impacts of any significant proposed system expansions. Given the challenges of previous independent cost analyses being funded by the entities they are reviewing, we strongly recommend that a costs analysis instead be completed by the HPC to most thoroughly and objectively determine the cost impacts of the Proposed Project.

In the event of an HPC-conducted cost analysis, we request that an additional public hearing be scheduled after the cost analysis has been conducted and released in order to more accurately understand the impact of this proposal. Thank you for your consideration of our comments. If you have any questions or would like to discuss our concerns further, please contact Alex Sheff at asheff@hcfama.org.

Sincerely,

A handwritten signature in black ink that reads "Amy Rosenthal". The signature is written in a cursive, flowing style.

Amy Rosenthal
Executive Director



The Commonwealth of Massachusetts

House of Representatives
24 Beacon Street, Boston, MA 02133

Mary S. Keefe

State Representative • 15th Worcester District
Mary.Keefe@mahouse.gov • (617) 722-2017

September 2, 2022

Marylou Sudders, MSW, ACSW, Secretary
Executive Office of Health and Human Services
1 Ashburton Place, 11th Floor
Boston, MA 02108

RE: Determination of Need for UMass Memorial Medical Center

Dear Secretary Sudders:

I am writing in support of UMass Memorial Medical Center's proposed project to create 91 new beds: 72 of which would be located at the former Beaumont nursing home adjacent to their campus, while 19 would be located on the UMass Memorial campus. This development would serve our region well and cannot happen soon enough, as Central Massachusetts is currently experiencing a shortage of more than 300 beds. Our communities are well aware of this crisis that has made seeking emergency care burdensome at best and life-threatening at the worst. Present wait times for admissions can last up to twenty hours, impairing providers' commitments to quality care.

The Determination of Need (DoN) regulations and statutes requiring DPH to vet a proposed project's impact on statewide cost, a process which includes input from the Health Policy Commission (HPC) and the Center for Health Information & Analysis (CHIA), should the project receive approval, ought to be sufficient vehicles for determining that this blueprint will meaningfully contribute to the Commonwealth's goals for cost containment. The total regional bed shortage is approximately 300 beds. UMass Memorial does not have the revenue to construct a bed tower, implying that the availability of the former Beaumont facility presents a more efficient, low-cost alternative to substantially reduce the bed shortage and improve access.

Central Massachusetts has 20% fewer beds per 1,000 residents than Western Massachusetts, 15% fewer than Eastern Massachusetts, and is substantially below the national average. UMass Memorial Medical Center is the only one of the state's six academic medical centers ("AMC") located outside of the City of Boston and is the sole provider of a wide range of highly specialized care across a broad geographic region: it contains the region's only Level 1 adult and pediatric trauma center, Level 3 NICU, Pediatric ED, Pediatric ICU, liver and kidney transplant center, comprehensive advanced interventional stroke and cardiovascular center, bone marrow

transplant, and CAR-T cell therapy program. Being the only provider of such highly specialized services for a broad geographic region results in unavoidable demand for the Medical Center's critical tertiary services.

The Medical Center's Emergency Department (ED) is the second busiest in the Commonwealth and has a high patient acuity level. Non-psychiatric ED patients who require admission spend 17 hours on average as "boarders" in the ED. Non-psychiatric ED boarder hours at the Medical Center increased 91% from FY18 to FY21. Overcrowding regularly forces the Medical Center to decline transfer requests from community hospitals for patients who need highly specialized care offered by an AMC. From February 2021 through February 2022, the Medical Center had to decline approximately 3,500 patient transfer requests from community hospitals: 43% of such requests.

This bed shortage negatively impacts access to care and drives up healthcare costs. UMass Memorial has been ranked the number one health system in the nation for avoiding overuse and the Medical Center is ranked 26th among hospitals, but the reality stands that we need more beds in the region. Before proposing these 91 new beds, the Medical Center implemented multiple other strategies to ease capacity constraints and improve health outcomes. The Medical Center and each UMMH community hospital is designated by the state as a High Public Payer hospital and by the federal government as a Disproportionate Share Hospital because of their high proportions of publicly insured or uninsured patients. Each especially serves a disproportionately high ratio of low-income patients who are either uninsured or on MassHealth/Medicaid, or Medicare. For these patients, the burden of ED delays or transfers to AMCs in Boston instead of Worcester are especially high.

Furthermore, approving the proposed bed expansion will also have a positive economic impact on the region. When operational, these additional 91 beds will require approximately 500 new full-time employees and will need to hire for construction. UMass Memorial intends to work closely with local community organizations to promote employment opportunities and training for community members who typically face barriers to employment.

I am confident that the solution being proposed here is a wise one financially and will meet the region's urgent healthcare needs. Further delay will not only worsen healthcare outcomes for residents, but will unnecessarily inflate costs for the project - the very side effect which UMass Memorial stakeholders are working to avoid. Therefore, I request that the Department let the process unfold and not pursue or entertain any request for an ICA at this time.

Please do not hesitate to contact my office with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Mary S. Keefe". The signature is fluid and elegant, with a prominent initial 'M' and a long, sweeping tail on the 'e'.

Mary S. Keefe
State Representative
15th Worcester District



1 Beacon Street, 16th Floor
Boston, MA 02108

www.aimnet.org | 617.262.1180 | fax 617.536.6785

September 2, 2022

Department of Public Health
Determination of Need Program
250 Washington Street, 6th Floor
Boston, MA 02108
Attn: Ms. Elizabeth D. Kelley, Director
Bureau of Health Care Safety and Quality

Ms. Marylou Sudders, Secretary
Executive Office of Health and Human Services
1 Ashburton Place
Boston, MA 02108

RE: Associated Industries of Massachusetts Statement Regarding Transparency of the Determination of Need (DON) Process

Dear Secretary Sudders and Director Kelley:

On behalf of the Associated Industries of Massachusetts' (AIM) 3,400 business members, I write with respect to the Department of Public Health (DPH) Determination of Need (DON) process to thank you each for your work to analyze healthcare system needs and capabilities in the Commonwealth, and to request an opportunity to further discuss your decision to forego an independent cost analysis (ICA) for pending Application #UMMHC-22042514-HE.

The purpose of this statement is not to challenge the merits of the pending application, nor to provide insight or feedback on the current healthcare market in Central Massachusetts. Instead, I share this statement to respectfully advocate for consistency and fairness in the DON regulatory review process.

AIM membership includes both healthcare providers and insurance carriers of various sizes and geographic jurisdiction, and our main priority remains advocating for high quality healthcare access and affordability on behalf of our employer members. As the DON regulatory review process is intended to ensure the best interests of patients and consumers are being carefully considered when significant capital investments are being proposed, we believe it is only fair to require all such applications undergo the same process of evaluation – typically including an ICA to further evaluate the merits or claims of a project applicant against capacity and cost concerns that are relevant factors for review. Since this was not the protocol followed for the aforementioned application currently pending before the Department, AIM would appreciate the opportunity to further discuss the reasoning and thought process behind your decision.

Thank you in advance for your time and consideration of this request. Please feel free to contact me directly to schedule a meeting at your earliest convenience at either 617-262-1180 or jregan@aimnet.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'John R. Regan', written in a cursive style.

John R. Regan
President & CEO
Associated Industries of Massachusetts