# Memorandum to the Public Health Council

**APPLICANT**: Steward Health Care System, LLC[1]
111 Huntington Avenue, Suite 1800
Boston, MA 02199

**DoN NUMBER**: 4-3B98/ 18092615-AM

**APPLICATION TYPE:** Request for Significant Change

**DATE OF APPLICATION**: October 29, 2018

## Introduction

This memorandum presents, for Public Health Council (PHC) action, the Determination of Need (DoN) Program's recommendation in connection with a request by Steward Healthcare System, LLC (Steward or Holder) for a Significant Change to the Determination of Need (DoN) currently held by St. Elizabeth's Medical Center (St. Elizabeth's) in Boston, MA. Steward seeks approval to build out shell space on the sixth floor of the Connell Building at St. Elizabeth's to accommodate 10 critical care unit (CCU) beds and 16 medical/surgical (M/S) beds. The Proposed Project would generate an increase in the maximum capital expenditure (MCE) of $15,873,420.00 (October 2018 dollars), and the Holder's community-based health initiatives (CHI) contribution will increase by $793,671.

This request falls within the definition for Significant Change that includes "…Any build out of shell space that was subject to a Notice of Determination of Need" and will be reviewed pursuant to 105 C.M.R. 100.635(A)(3), which requires that the proposed change falls within the scope of the Notice of Determination of Need and is reasonable. The Department has received no public comment on this request for Significant Change.

## Background

St. Elizabeth's is a 267-bed teaching hospital affiliated with the Tufts University School of Medicine. St. Elizabeth's is one of eleven hospitals in the Steward Health Care System, LLC. Steward has an Accountable Care Organization, (ACO) for which St. Elizabeth's serves as the tertiary referral center. In 2011, the Department approved a DoN at St. Elizabeth's for construction of a one-story addition (fifth floor) to its existing four-story Connell Building to accommodate a consolidated 23-bed critical care unit (CCU) to replace the existing separate 27-

[1] The DoN Regulation requires that the Applicant for a DoN or an amendment be the Provider Organization and thus, this request for Significant Change is filed by Steward Healthcare System, Inc. while the underlying DoN, which was approved under the old regulation, was in the name of St. Elizabeth's Medical Center.

bed CCU.[2] The Holder asserted that the construction was needed to address physical plant inadequacies due to age, and inefficient operation due to size and layout of the existing CCU beds. The original project entailed 47,067 GSF of new construction, of which 2,730 GSF would be shell space that would permit the development of five CCU beds in the future based on increasing demand, and 299 GSF of renovation to connect the CCU to the existing Emergency Department (ED). The following year, 2012, the Department approved an amendment increasing the amount of total new construction from 47,067 to 75,763 GSF (including 23,085 GSF of shell space) and to add a sixth floor of shell space to the Connell Building. Since then, the Department has approved three additional amendments which were intended to improve St. Elizabeth's capacity to serve the growing demand for tertiary level services. The chart below provides the sequence of the previous amendments including the increases in MCE and build-out GSF. The Proposed Project is listed in the last row of the chart. A brief summary of each amendment is provided in Attachment 1. Following this request for significant change, there will be no remaining shell-space.

| Filing Type | Approval Date | Approved Gross Square Footage (GSF) | | | | Approved MCE | CHI |
|---|---|---|---|---|---|---|---|
| | | Total GSF | New Construction (w/out shell) | Shell Space | Renovation | | |
| DoN #4-3B98 | 07/13/2011 | 47,067 | 44,337 | 2,730 | 299 | $18,093,225 | $904,663 |
| Amendment 1 | 06/13/2012 | 75,763 | 50,815 | 23,085 | 1,863 | $25,008,921 | $1,228,291 |
| Amendment 2 | 08/14/2013 | 75,763 | 53,545 | 20,355 | 1,863 | $29,231,960 | $1,439,443 |
| Amendment 3 | 02/12/2014 | 98,169 | 53,545 | 20,355 | 24,269 | $36,082,475 | $1,804,124 |
| Amendment 4[3] | 04/08/2015 | 102,509[4] | 53,545 | 21,058 | 27,906 | $52,550,902 | $2,627,545 |
| Proposed Project | - | 102,509 | 53,545 | 21,058 | 27,906 | $68,424,322 | $3,421,216 |

| | Approval Date | Total GSF | Approved MCE | Cost/GSF |
|---|---|---|---|---|
| DoN #4-3B98 | 07/13/2011 | 47,067 | $18,093,225 | $384.4 |
| Amendment 1 | 06/13/2012 | 75,763 | $25,008,921 | $330.1 |
| Amendment 2 | 08/14/2013 | 75,763 | $29,231,960 | $385.8 |
| Amendment 3 | 02/12/2014 | 98,169 | $36,082,475 | $367.5 |
| Amendment 4 | 04/08/2015 | 102,509 | $52,550,902 | $512.6 |
| Proposed Project | - | 102,509 | $68,424,322 | $667.5 |

**Proposed Amendment: build-out of shell space for the addition of 10 CCU beds and 16 medical/surgical beds**

The Holder proposes to build out shell space on the 6th floor of the Connell Building for the addition of 10 critical care unit (CCU) beds and 16 medical/surgical (M/S) beds. If approved, this will increase the total CCU bed count from 28 to 38 and increase the total number of M/S beds from 154 to 170. The Holder asserts that St. Elizabeth's is experiencing capacity constraints associated with its role as a tertiary referral facility. The Holder also projects cardiac, thoracic,

[2] The 27-bed CCU included a seven-bed respiratory intensive care unit, seven-bed cardiac care unit, nine-bed surgical intensive care unit, and a four-bed neurological step-down unit.
[3] This amendment expired before implementation.
[4] Includes the addition of 703 GSF of space previously under-reported of the total space constructed on the sixth floor of the Connell Building.

vascular, and neurosurgery services lines increases due to an aging patient panel. Upon reviewing St. Elizabeth's present service needs, Steward determined that the remaining shell space on the 6th floor of the Connell Building should be built out for the addition of 10 CCU beds and 16 medical/surgical beds. Steward asserts the build-out is intended to ease capacity constraints and to create capacity to meet the needs of the system's ACO.

*Need for Additional Critical Care Unit (CCU) Beds*

St. Elizabeth's currently has 28 licensed CCU beds. The Holder asserts that St. Elizabeth's keeps one CCU bed available as a code bed at all times, due to the medical complexity of patients at the hospital. This means that operationally, St. Elizabeth's CCU capacity is 27 beds. Steward states that St. Elizabeth's patient population is largely surgical and notes that CCU occupancy fluctuates with surgical volume and points to variations in census between weekends, when the census is, on average, lower, and weekdays, when the average daily census is much higher. Over the last two quarters, the average CCU occupancy rate Monday-Friday has exceeded 25 patients, while the weekend CCU occupancy rate was closer to 23.5 patients. Steward asserts that as a result, St Elizabeth's has to decline transfers. Steward states that 50% of the transfers to the CCU that it declines are declined due to lack of bed availability, and most declined transfers occur during the week when census is higher. Steward also states that approximately 84.4% of the patients transferred to the hospital are transferred from another Steward Hospital, and that those patients who are not accepted must be transferred to a hospital with capabilities to match the patient's clinical needs, which most often include other Boston teaching hospitals which are not part of the Steward ACO. Steward estimates that by 2022, patient volume for cardiac, thoracic, vascular, and neurosurgery service lines will grow by 300 operating room procedures over current year volume which, in turn, will add over 2,000 new CCU patient days. Steward asserts that patients undergoing care for cardiac, thoracic, vascular, and neurological conditions require a greater level of care necessitating placement in the CCU.

*Need for Additional Medical/Surgical Beds*

The Holder proposes the addition of 16 medical/surgical beds to support St. Elizabeth's surgical service and to allow for the efficient transfer of patients from the CCU to medical/surgical beds. Steward states that there is need for additional inpatient capacity citing a 6% increase in M/S patient days and a 2.5% increase in M/S discharges between 2015 and 2017. Steward points to St. Elizabeth's high inpatient surgical volume (75% of cases) and cites its role as a tertiary facility caring for high acuity and medically complex patients as further indication of need for additional critical care capacity. Steward notes that inpatient volume originates from the communities where Steward's community hospitals are located and that the community hospitals provide routine care and refer patients to St. Elizabeth's for complex treatment.

The Applicant states that 110 of the 154 patient beds are in semi-private rooms and 44 beds are located in private rooms. Steward asserts that the low number of private rooms creates a need to block beds due to gender, acuity, or other reasons. As a result of these multi-bedded rooms, which limit the flexibility of patient placement, the average occupancy rates were lower than the optimal rate of 85%. Steward affirms that each new M/S room will be private with private toilet and shower facilities and will include space in the room for families. Steward states

further that private rooms improve infection control and allow for more adequate space to accommodate equipment and create a safer environment.

**Impact on Costs**

Steward projected the yearly operating expense to increase by $4,000,000.00. The Holder asserts that this increase is due in large part to the proposed ICU and M/S service staff that will be required to provide care for additional patient volume and increased support service staff (respiratory, food service, environment, etc.), needed to support the proposed increase in patient volume and square footage. Steward maintains the increased availability of CCU beds and M/S beds will allow St. Elizabeth's to maintain patients within its ACO and insurance payer network, which will reduce care transfers outside of the networks which will in turn, reduce patient cost-sharing.

**Impact on Community-based Health Initiative Funding**

The 2017 regulation requires a CHI commitment of 5% of the MCE of a project. When an amendment is filed requesting an increase in the MCE of a project the amount increases accordingly, and is subject to standard condition 105 CMR 100.310( J).

For this project, due to the time elapsed since the last amendment to DoN #4-3B98 (April, 2015) and because St. Elizabeth's is in the process of completing a new community health needs assessment (CHNA) which will be completed in February 2019, DPH has determined that St. Elizabeth's will use the new CHNA as the basis for CHI planning. While St. Elizabeth's new CHNA process began prior to the decision by the Conference of Boston Teaching Hospitals (COBTH) (of which St. Elizabeth's is a member) to collaborate on one CHNA for its members, St. Elizabeth's intends to collaborate with COBTH in order to promote synergies between the two CHNAs.

Accordingly, DPH will assess St. Elizabeth's 2019 CHNA for compliance with Community Engagement and Health Priority standards and will require that a Community Engagement plan be completed to describe coordination with the COBTH CHNA all with the goal of identifying coordinated approaches to addressing the needs identified through these two CHNA processes (and with the understanding that St. Elizabeth's primary area of focus is in the communities of Allston and Brighton). Issues identified through DPH's review of St. Elizabeth's 2019 CHNA will be addressed through St. Elizabeth's Community Engagement Plan.

**Findings and Recommendation**

As the Applicant for this Amendment and as the Provider Organization, Steward is the obligated party with respect to, and must comply with, all Conditions upon which the DoN and any amendments are approved.

Based upon the information submitted, the Department can find that the proposed change or modification falls within the scope of the Notice of Determination of Need as previously approved by the Department, and is reasonable.

Under 100.635(a)(3) "… Final Actions may include additional terms and Conditions to be attached to the Notice of Determination of Need." Staff recommends that the following Standard conditions set out in 105 CMR 100.310(A) apply to this DoN and all amendments thereto:

105 CMR 100.310(A)(8) The Government Agency license of the Health Care Facility or Health Care Facilities for which, and on behalf of, the Holder possesses a valid Notice of Determination of Need, shall be conditioned with all Standard and Other Conditions attached to the Notice of Determination of Need.

105 CMR 100.310(A)(11) If the Health Care Facility or Heath Care Facilities for which the Notice of Determination of Need has been issued is eligible, the Holder shall provide written attestation on behalf of the Health Care Facility or Heath Care Facilities, under the pains and penalties of perjury, of participation, or their intent to participate, in MassHealth pursuant to 130 CMR 400.000 through 499.000.

105 CMR 100.310(A)(12) The Holder shall report to the Department, at a minimum on an annual basis, and in a form, manner, and frequency as specified by the Commissioner. At a minimum, said reporting shall include, but not be limited to, the reporting of measures related to the project's achievement of the Determination of Need Factors, as directed by the Department pursuant to105 CMR 100.210.

105 CMR 100.310(A)(13) If it is determined by the Department that the Holder has failed to sufficiently demonstrate compliance with one or more Conditions, the Holder shall fund projects which address one or more of the Health Priorities set out in Department Guideline, as approved by the Department, which in total, shall equal up to 2.5% of the total Capital Expenditure of the approved project. Said projects shall address one or more of the Health Priorities set out in Department Guideline, and shall be in addition to those projects approved by the Department in fulfillment of 105 CMR 100.210(A)(6). In making such determination, the Department shall provide written notification to the Holder at least 30 days prior to requiring such funding, and shall provide the Holder the opportunity to appear before the Department. The Department shall consider circumstances external to the Holder that may impact the Holder's ability to demonstrate compliance.

105 CMR 100.310(A)(14) The Holder shall provide to Department Staff a plan for approval by the Office of Health Equity for the development and improvement of language access and assistive services provided to individuals the Holder's Patient Panel, including individuals with disabilities, and patients are non-English speaking, or have Limited English Proficiency (LEP), and or use American Sign Language (ASL) patients.

105 CMR 100.310(A)(15) The Holder shall provide for interpreter services to the Holder's Patient Panel. The Holder shall ensure that all medical and non-medical interpreters, inclusive of staff, contractors, and volunteers providing interpreter services to the Holder's Patient Panel maintain current multilingual proficiency and have sufficient relevant training. Training for non-medical interpreters should include, at a minimum:
(a) the skills and ethics of interpretation, and
(b) cultural health beliefs systems and concepts relevant to non-clinical encounters.
(c) Training for medical interpreters should include, at a minimum:
(i) the skills and ethics of interpretation, and
(ii) multilingual knowledge of specialized terms, including medical terminology, competency in specialized settings, continuing education, and concepts relevant to clinical and non-clinical encounters.

105 CMR 100.310(A)(16) The Holder shall require and arrange for ongoing education and training for administrative, clinical, and support staff in culturally and linguistically appropriate services (CLAS), including, but not limited to, patient cultural and health belief systems and effective utilization of available interpreter services.

105 CMR 100.310(A)(17) All Standard and Other Conditions attached to the Notice of Determination of Need shall remain in effect for a period of five years following completion of the project for which the Notice of Determination of Need was issued, unless otherwise expressly specified within one or more Condition.

105 CMR 100.310(A)(18) In the event that the Holder is required by the Health Policy Commission to develop and file a Performance Improvement Plan (PIP) pursuant to 958 CMR 10.00, then the Holder shall report to the Department that the Holder has filed the PIP and is engaged in ongoing efforts to implement the PIP consistent with 958 CMR 10.00. The Holder will timely provide all information necessary for CHIA to perform its analysis required by M.G.L. c. 12C § 18 and for the HPC to determine if the Holder must develop and file a PIP. If the HPC finds the Holder has not fully complied with the requirements of the PIP implementation process, as set forth in 958 CMR 10.00, then, notwithstanding the HPC finding, the Holder shall report to the Department on why the Department should find that the Holder is still in compliance with the terms and conditions of the Notice of Determination of Need.

Conditions Relative to CHI

1. Of the total required CHI contribution of $793,671, $198,417 will be directed to the CHI Statewide Initiative and $595,254 will be dedicated to local approaches to the current CHI initiative. To comply with the Holder's obligation to contribute to the Statewide CHI Initiative, the Holder must submit a check for $198,417 to Health Resources in Action (HRiA), 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 the Department of Public Health (CHI contact staff) when the payment has been made.

2. The Holder will submit the following CHI materials to program staff at the Department no later than two months after the date of Public Health Council approval of the Proposed Project:
    - CHNA/CHIP Self-Assessment Form
    - CHI Stakeholder Assessment Forms
    - CHI Community Engagement Plan Form
    - CHI Narrative, including a timeline for all CHI activities

3. Submittal of the Health Priorities and Strategies Selection Form no later than one month after the COBTH CHNA is complete. .

All other conditions in DoN 4-3B98 and subsequent amendments remain in effect

**Attachment 1**
**Summary of Four Previous Amendments**

**Amendment 1: June 13, 2012**

Request for a significant change to add a floor of shell space (sixth floor) to the Connell Building above the approved but not yet constructed CCU to accommodate a future 30-bed medical/surgical unit. The Holder states that the request was based on a study that revealed that the condition of existing medical/surgical facilities was inadequate to meet patient needs over the foreseeable future. The shell space would have the capacity to replace 30 existing medical/surgical beds and increase the number of private bed rooms from 31 to 91. The amendment increased the total new construction from 47,067 to 75,763 GSF (including 23,085 GSF of shell space) and increased the MCE of the Project from $18,093,255 to $25,008,921 (March 2012 dollars).

**Amendment 2: August 14, 2013**

Request for a significant change to build-out 2,730 GSF of approved shell space on the fifth floor of the Connell Building to accommodate 5 additional CCU beds and associated support functions, and construction of mechanical infrastructure associated with the future build-out of the 6th floor shell space. The Holder cited increasing utilization of critical care beds and an increase in the acuity of the patient population as rationale for the proposed amendment. The Holder stated at the time of the amendment that St. Elizabeth's would develop the 28 CCU beds. The amendment did not change the approved Project square footage and increased the MCE of the Project from $25,008,921 to $29,231,960 (June 2013 dollars).

**Amendment 3: February 12, 2014**

Request for a significant change to renovate 22,406 GSF of existing space on the third floor of the Seton Pavilion, in space to be vacated by the CCU consolidation. The renovation included a substantial update and expansion of its surgical suite, the relocation of the existing PACU to free up space for the addition of two operating rooms for inpatient surgery, and other support functions. Holder undertook what it described as an extensive investigation of existing physical plant deficiencies and future service requirements prior to filing the amendment and asserted that the renovations would improve management of the quality and cost of surgical care. The Holder states the Hospital was experiencing increasing demand for its surgical services, two-thirds of which was attributable to cardiac and other major surgery for inpatients. The Project would increase the number of operating rooms from 11 to 13. The proposed rooms would be appropriately sized (760GSF) and equipped for cardiac and other complex surgical procedures. The amendment increased the MCE from $29,231,960 to $36,082,475 (October 2013 dollars).

**Amendment 4: April 8, 2015**

Request for significant change to build-out 21,058 GSF of approved shell space on the sixth floor of the Connell Building to establish a 20-bed adult medical/surgical unit and an eight bed intensive care unit (ICU). The Project would increase the adult medical/surgical bed count from 128 to 148 and the ICU bed count from 28 to 36 beds. The approval included renovation of 3,637 GSF on the third floor of the Seton Pavilion to construct two new operating rooms and

related support functions in space vacated by the relocation of the surgical intensive care unit. The Project would increase the surgical capacity from 13 to 15 operating rooms. The Holder cited recent and projected growth in its patient service volume associated with its role as a tertiary referral hospital for the Steward Health Care Network as rationale for the amendment. The Hospital was establishing a neurosurgery program and the two additional operating rooms were intended to accommodate projected volume of neurosurgery cases. The approval added 703 GSF of space previously under-reported of the total space constructed on the sixth floor of the Connell Building. The amendment increased the total square footage of the Project to encompass 74,603 GSF of new construction and 27,906 GSF of renovations and increased the MCE of the Project from $36,082,475 to $52,550,902 (August 2014 dollars). The approval expired before the Medical Center could implement the approval. The 6$^{th}$ floor of the Connell Building remains shell space and the former surgical CCU is vacant.