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March 15, 2021

VIA EMAIL [DPH.DON@State.MA.US](mailto:DPH.DON@State.MA.US)

Lara Szent-Gyorgyi  
Director, Determination of Need Program  
Massachusetts Department of Public Health  
250 Washington Street, 6th Floor  
Boston, MA 02108

RE: Determination of Need (“DoN”) Application Project #21012113-AS (the “Application”) – Proposed \$223,724,658 Multi-Site DoN for Three New Ambulatory Sites located in Westborough, Westwood & Woburn, each including a Freestanding Ambulatory Surgery Center with Four Operating Rooms, Physician Services and Imaging Services (CTs and MRIs) (the “proposed projects”) – Additional Comments of UMass Memorial TTG

Dear Ms. Szent-Gyorgyi:

On behalf of the UMass Memorial TTG, please accept this third public comment letter to supplement the TTG’s two previous submissions: (i) the TTG’s initial public comments contained within the TTG registration dated February 12, 2021, and (ii) the public comment letter dated March 12, 2021. Each of these submissions raised significant cost containment and health equity concerns regarding the planning of the proposed projects and the ramifications of approving the Application, the need for an independent cost analysis (ICA) and technical compliance matters.

The purpose of this third public comment letter is to delineate important questions raised by the Application that we believe are a necessary part of analyzing its compliance with the DoN factors should the Department’s review proceed. We believe the below questions may be useful to the Department both for defining the scope of work for an ICA and also for information request(s) to the Applicant. We have attempted to organize the questions topically, but many questions fit within multiple topic areas as the areas are heavily intertwined:

## I. Questions Relevant to Patient Panel Need

Based on our review of the Application, the patient panel does not appear to support the size and scope of the proposed project at the Westborough location. Answers to following questions would shed light on the concern that the proposed project at that site is not needed and overbuilt, or that the Application is does not contain complete information as to its assumptions and projections:

1. Within the patient panel defined by the Applicant, does the “No” marker in the “MGB PCP on EPIC?” mean that the patient does not have a PCP in the MGB network? (See page 75 of the Application).
  - a. What percentage of the MGB patient panel for the Westborough location has an established relationship with an MGB PCP?
2. In the Application MGB assumes that all patients get their care where they live even though many also get their care closer to where they work. Has MGB identified within their patient panel how many patients in the proposed Westborough service area have an employer in the Boston area and yet want to relocate their care closer to home as opposed to wanting to maintain their care at the current location?
3. The proposed projects of Westborough and Woburn each have similar square footage (62,048) and scope of services, with the capability to expand beyond current patient panel sizes, however, the two projects have materially different patient panel sizes and projected volumes. How does MGB justify the need for the square footage of Westborough location given the following:
  - a. The population of the proposed Woburn service area location is 1.6 times the size of Westborough’s proposed service area? Based on the CHIA 2014-2018 population levels provided in MGB DoN application, the Woburn location has a proposed service area population of 504,680 compared with Westborough at 310,753.
  - b. In its Community Health Needs Assessment for the proposed Westborough service area, MGB asked survey respondents to choose from seventeen options for “Strengths of Their Community”. Respondents ranked “Accessible Medical Services” number 2, with almost 70% citing it as a community strength. In light of accessible medical services being selected as a top community strength by a substantial majority of a representative survey group, why did MGB see the proposed Westborough area as one that needs an expansive new medical facility? (As opposed, for example, to regions where “Accessible Medical Services” rank low in surveys). Is there evidence that Westborough proposed service area is currently under-resourced?

4. Did MGB do a review of Westborough's physician market to determine the number of physicians needed in the market generally as well as specific community access needs in the area when it comes to both primary care and subspecialist physicians?
5. It is important to confirm that the patient panel estimates for surgical procedures is based on serving only those patients that can safely be treated at a freestanding ASC. For example, frail elderly or obese patients would have a higher ASA level and thus would generally be treated at a hospital outpatient department as they would be of greater risk of transfer to an inpatient facility. Can MGB provide a breakdown of the proposed Westborough ASC surgical cases (3,201) by The American Society of Anesthesiologists (ASA) levels?
6. Based on market research that has been conducted, it is estimated that the Woburn services area has an estimated 10 MRIs while the proposed Westborough services areas has 7 MRI units. It has been noted that the Woburn service area's population is 1.6 times the size of the proposed Westborough service area. How does MGB justify the need for a new MRIs in the Westborough market especially with MGH-West's recently approved DoN application for 2 new 3T MRIs. How did MGB examine and determine the number of CT/MRIs in the market especially it relates to the Westborough location?
7. MGB indicates that to operate efficiently CT and MRI units will need to operate at 85% capacity.
  - a. Where will volume growth come from if the growth on CT/MRI services is expected to be only 1.7% annually over the next 10 years based on Sg2 Market forecast projections?
  - b. What is MGB's projection for CT/MRI volume specifically at Westborough and overall that it will capture outside of the existing patient MGB panel?
  - c. What is the estimated impact on TME if the MGB CT/MRI volume specifically at Westborough and across its system increases to include patients outside the existing MGB patient panel for the Westborough region or MGB service area, as applicable, in order to achieve the 85% capacity level? (also applicable to Section II regarding TME, below).
8. What is the maximum volume of services that could be accommodated within the planned clinic space at Westborough specifically and at each of the other two proposed ambulatory sites? Does MGB anticipate the reduction of an equivalent volume at its existing locations? If not, what is the source of the new volume to backfill the volume that MGB states will relocate to the new clinic sites? What impact will the aggregate increase in volume have on TME for the Commonwealth? (also applicable to Section II regarding TME).

9. How is the expanded availability of telehealth factored into MGB's projected need for the new bricks and mortar facilities? Was this considered when evaluating the size and scope of each of the proposed projects?
10. The Application states that it makes use of conservative projections. Has Applicant projected for each proposed project the extent to which it is likely to reach higher volumes than projected and how so?

II. Questions Relevant to Impact on Total Medical Expenses ("TME") & Lower Cost Providers

MGB's plan to expand and increase capacity (both inpatient and outpatient) throughout its system, particularly through positioning its expansion efforts in a manner which is likely to increase its volume of commercially insured patients, will increase TME and likely weaken the financial performance of regional, lower cost health care providers (both hospitals and physicians). In addition to TME related questions noted above, please consider the following:

1. MGB has stated that the purpose of the new sites is to enable existing MGB patients to receive care closer to their homes.
  - a. Does MGB anticipate patient volume moving from Newton Wellesley Hospital or other MGB hospitals to the new location? How many of the 180,861 physician visits and 14,525 surgical cases they anticipate will seek care at their 3 new locations derive from those existing locations?
  - b. Will MGB close or reduce the amount of clinical space or number of providers and staff at their existing facilities for the 180,861 physician visits and 14,525 surgical cases they anticipate will transfer care to their 3 new locations? Specifically, are such reductions anticipated at MGB West – Waltham and Newton Wellesley Hospital?
  - c. If clinical space or staffing at their existing facilities will not change, how does MGB plan to backfill the existing space and staffing? Does MGB anticipate backfilling the capacity with higher cost hospital services?
  - d. How does MGB plan to shift patients with existing PCPs and subspecialists from their existing locations and PCPs in the Boston area or other MGB locations to the proposed Westborough location?
  - e. How does the shift of patients and the backfilling of existing space impact the TME projections for the State?
2. Based on the CHIA data<sup>1</sup>, when MGB established its site in Foxboro, the local community hospital facilities (Sturdy Memorial Hospital and Steward Norwood) lost

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<sup>1</sup> Based on FY16 to FY19 CHIA Inpatient Case Mix data results for the 18 different towns in and around the Foxborough location, the overall Commercial and Medicaid market grew by 149 and 31 discharges respectively.

- commercial volume while their percentage of patient volume covered by MassHealth increased.
- a. Do MGB's projections incorporate similar anticipated impacts on Marlboro Hospital, Milford Regional Medical Center, and/or UMass Memorial Medical Center?
  - b. If not, why would the experience in Westborough be different?
3. Will MGB need to recruit new physicians into the market to service some or all of the proposed project sites, and/or to backfill if it transfers physicians from other MGB locations?
    - a. Which sites will require new physician staff and how many per location?
    - b. From where does MGB anticipate recruiting new physician staff?
    - c. If new physicians are recruited to staff the new sites, what impact does MGB anticipate there will be on the regional physician market specifically with respect to compensation and availability of physicians? Has MGB evaluated the potential impact on access to physician services at local existing competitors, including safety net and DSH providers?
    - d. Providing specialists in a local community generally requires "on-call coverage" (24/7) within the practice, particularly for specialties requiring immediate follow-up care such as surgical specialties. Will MGB's current patient panel support the number of physicians in each specialty required to provide such coverage? Will MGB seek to enlarge its patient base to support the total number of physicians required to create a coverage group for each specialty?
  4. What are the TME savings anticipated for physician services associated with the proposed projects given the fact that MGB physicians receive the highest commercial rates for professional services in the State according to CHIA 2018 relative pricing data?
  5. Will additional non-physician staff be needed, and if so how many? Will MGB transfer staff from other MGB locations and/or from where will they be recruited? If they are transferred from other existing MGB locations, does MGB anticipate backfilling those positions?
  6. How does the proposed ASC project compare to other independent ASCs in the applicable market from a TME perspective?
  7. Where will the Westborough site send secondary, tertiary and quaternary referrals?

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MGB was able to increase its commercial inpatient referrals from these town by 498 discharges while lowering their Medicaid referrals by 242 discharges. In contrast, Sturdy Memorial and Steward Norwood Hospital both experienced increases in Medicaid discharges of 171 and 87 respectively, with Steward Norwood Hospital significantly affected by lower commercial discharges of 218.

- a. What impact has MGB projected the proposed projects will have on statewide TME, including the potential impact of secondary, tertiary and quaternary referrals moving from local lower cost acute care hospitals such as Milford Hospital, Emerson Hospital, Marlborough Hospital and UMass Memorial Medical Center to MGB acute care hospitals?
  - b. What is the anticipated increase in secondary, tertiary and quaternary revenue at MGB facilities related to the Westborough location over the next 1-3, 3-5 years and beyond? What is the impact of this proposed location on TME for the State? What is the anticipated impact for the other two proposed projects?
8. Between 2021 and 2025 MGB anticipates an increase in EBIDA margin of \$252.8M. Please explain the major drivers for the increase in EBIDA margin given MGB's assertion that the proposed projects will result in patients accessing lower cost services resulting in TME savings?
  9. The Application states that it makes use of conservative projections. How does that assumption impact the statements regarding TME in the application? Does MGB have analyses to share using less conservative projections?

### III. Detrimental Impact on Health Equity

In addition to the concerns noted above, the proposed project will worsen existing health disparities in the region and the State. To the extent that MGB cherry picks commercially insured patients, the existing local community, safety net providers are left to shoulder an even more disproportionate share of lower reimbursement public payor, and particularly Medicaid patients without the financial resources necessary to subsidize this care. The decision to locate the proposed project in a community with a relatively low number of Black/African American and Latino/Hispanic residents disregards the need to address existing racial/ethnic disparities in access to care.

1. What percentage of MGB's total patient population is covered by Medicaid?
2. What percentage of the patient population at Westborough does MGB project will be covered by Medicaid? From what communities does MGB anticipate drawing the Medicaid patient population to this location? On what does it base that calculation? How does the lack of available public transportation factor into the calculation?
3. What payors are included in "Other" as referenced in Attachment 4 Patient Panel Payor Mix for the Westborough Location?

4. Is MGB projecting that the payor mix for the Westborough Location for the next five years will be the same as the payor mix defined in Attachment 4 Patient Panel Payor Mix for the Westborough Location?
  - a. What are the revenue projections by payor and payor mix for the Westborough location for five years?
  - b. How does the lack of available public transportation to the Westborough site from the region's lower income communities' impact that calculation?
  
5. Did MGB take into account the demographics of Westborough in selection of the site in view of state-wide concerns regarding disparities in access to care for Black/African American and Hispanic/Latino residents?
  - a. What other locations were considered, and were existing disparities in access to care for Black/African American and Hispanic/Latino residents factored into the siting decision?
  - b. How does the location of the new facility in Westborough address or reduce existing health disparities for Black/African American and Hispanic/Latino residents?
  
6. In the above-referenced Westborough Community Health Needs Assessment survey, "Good Public Transportation" ranked last among the seventeen options for regional strengths by an overwhelming margin – with only 14.4% of respondents selecting this option. The next worst option ranked 20 percentage points higher. In light of this negative ranking and the clear challenge identified by the community-representative group, why did MGB select a site that is not accessible by public transportation for residents who lack access to a private vehicle?
  - a. To what extent will the lack of public transportation render the site inaccessible for low income patients without access to a private vehicle from neighboring communities that MGB states are part of the Westborough proposed service area?
  - b. What impact will the lack of public transportation resources have on racial/ethnic disparities
  
7. Why does MGB's DON filing not provide required information on local/MWBE construction work?
  
8. To which full services hospitals will ASC patients requiring emergency acute care hospital services be transferred?
  - a. Has MGB projected how often such transfers are likely to be required?
  - b. Does MGB provide a subsidy to community hospitals that support its ambulatory locations?

Thank you again for the opportunity to provide these public comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Brown', with a long horizontal flourish extending to the right.

Douglas S. Brown

President of Community Hospitals  
and CAO

UMass Memorial TTG Representative

Cc: Katharine Eshghi  
Jennifer Gallop