



ST. MARY'S REGIONAL MEDICAL CENTER
ST. MARY'S D'YOUVILLE PAVILION
COMMUNITY CLINICAL SERVICES
P.O. Box 7291, Lewiston, ME 04243-7291
207-777-8100

January 29, 2015

Kenneth Albert, Director
Division of Licensing & Regulatory Services
Department of Health and Human Services
State House Station #11
41 Anthony Avenue
Augusta, ME 04333

Sarah Taylor, Asst. Dir. Medical Facilities Div.
State of Maine
Department of Health and Human Services
State House Station #11
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✓ Larry D. Carbonneau, Manager
Health Care Oversight
Division of Licensing & Regulatory Services
Department of Health and Human Services
State House Station #11
41 Anthony Avenue
Augusta, ME 04333

**RE: Letter of Intent / Request for NSTR for Proposed Merger of St. Mary's
Regional Medical Center and St. Mary's d'Youville Pavilion**

Dear Mr. Albert, Ms. Taylor and Mr. Carbonneau:

St. Mary's Health System ("SMHS") files this Letter of Intent ("LOI") with respect to the proposed merger of its subsidiaries St. Mary's Regional Medical Center ("Hospital") and St. Mary's d'Youville Pavilion ("Nursing Home"), located in Lewiston, Maine. We also renew our request for a non-applicability determination for the reasons set forth in our December 15, 2014 letter which we recently withdrew before a DHHS response was due.

With the expectation that you will require a Certificate of Need ("CON") in order to implement the proposed merger, we also request that a Technical Assistance Meeting ("TAM") be scheduled in the near term, as we propose to implement the merger effective July 1, 2015, or earlier.

Renewed NSTR Non-Applicability Request

We appreciate the guidance that Mr. Carbonneau has provided to our counsel, and understand that DHHS essentially views all mergers to require CON approval. We respectfully disagree with this view, and urge that this particular merger ought not to require CON approval.

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We attach hereto a copy of our December 15, 2014 letter requesting a non-applicability NSTR ruling and incorporate by reference each of the points and arguments set forth in that letter. We are repeating the key points are as follows:

- The Hospital and Nursing Home are both Maine non-profit corporations whose sole member is SMHS, also a Maine non-profit corporation.
- The right to appoint the Directors of the Hospital, the Nursing Home and SMHS rests with Covenant Health Systems, Inc. ("Covenant"), the sole member of SMHS, and the Boards of each of these entities are the same individuals. This is the management structure that was approved by the CON Unit in 1992 when Covenant Health became the sponsor of St. Mary's Hospital and Nursing Home.
- There is no change in the ownership or control of either the Hospital or the Nursing Home, and governance will remain the same.
- There is no capital expenditure.

Technical Assistance Meeting

Should you determine that the merger is subject to CON review, we ask that a technical assistance meeting be scheduled in the near term. We understand from Mr. Carbonneau that certain elements of the application can be streamlined and that a review timeframe of 90 days or less is likely. We want to work with you to move expeditiously toward implementation and assure compliance with all pertinent regulatory requirements.

MaineCare Neutrality

At the TAM, we also want to review with you the relevant criteria and standards to be applied to this CON review. Mr. Carbonneau has suggested that because the merger would involve nursing facility services, the standard of "MaineCare Neutrality" may be applied, which would potentially require us to demonstrate either that the merger will not result in any increase in MaineCare reimbursement or that any increase is to be offset with MaineCare savings from a reduction of beds or other adjustments.

While we are pursuing the merger to achieve several cost efficiencies, we are also seeking to assure that the Nursing Home's services attain recognition as Hospital-Affiliated Nursing Facility services under Principle 13 of the Nursing Facility Principles of Reimbursement, and that they be classified with the hospital based facility peer group set forth in Principle 80. While this would bring with it additional MaineCare reimbursement, we see this result as effectuating the policy goals underlying the establishing of these peer groups, and properly classifying this Nursing Home's services with those of similarly situated facilities in other parts of the state.

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It is important to note also that the concept of "MaineCare Neutrality" is only mandated under the CON statute in connection with nursing facility projects that add new nursing facility beds to the state's inventory. *See* Section 335 (1)(F) of the CON statute. Rather, we are told that the application of MaineCare Neutrality to nursing facility projects has arisen from its discretionary consideration of the standards set forth in Section 335 (7)(B) and (D) relating to "economic feasibility" and "orderly and economic development of health facilities and health resources".

We will be prepared in our application to demonstrate that the merger amply fulfills these standards and is important to preserve our ability to continue to provide these Nursing Home services in a more economically feasible manner.

Significantly, too, this MaineCare Neutrality standard has not been applied to hospital projects, and ought not to be applied to this hospital project. The Nursing Home is being merged into the Hospital, and the Hospital is applying for the CON.

We would appreciate the opportunity to discuss this in preliminary fashion at the TAM, and get a better sense of what information might be meaningful to DHHS in evaluating this aspect of our forthcoming application.

Conclusion

In conclusion, we look forward to working with you on the implementation of the merger and to the satisfaction of applicable DHHS regulatory requirements.

Our counsel on this matter, John Geismar and John Doyle, will be in touch with Mr. Carbonneau shortly to confirm his receipt of this filing and seek to arrange scheduling of the TAM.

Sincerely,



Carolyn M. Kasabian
Chief Financial Officer
St. Mary's Regional Medical Center

cc: Rene L. Dumont, VP Strategic Growth/IT Liaison
Lee Myles, President and Chief Executive Officer
John P. Doyle, Jr., Esq.
John W. Geismar, Esq.

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