

BRIEFING MEMO

Eastern Maine Medical Center **Purchase a Surgical Robot**

TO: Brenda M. Harvey, Commissioner, DHHS

THROUGH: Catherine Cobb, Director, Division of Licensing and Regulatory Services

FROM: Phyllis Powell, Manager, Certificate of Need Unit
Steven R. Keaten, Healthcare Financial Analyst

SUBJECT: Proposal by Eastern Maine Medical Center to purchase a surgical robot to be used at the State Street Campus in Bangor, Maine at an estimated capital cost of \$1,330,308.

DATE: October 10, 2007

ISSUE ACTIVATED BY: The referenced proposal requires Certificate of Need approval as defined in "The Maine Certificate of Need Act of 2002," 22 MRSA Section 326 et seq., as amended.

REGISTERED AFFECTED PARTIES: N/A

BACKGROUND:

- Eastern Maine Medical Center (EMMC) is a not-for-profit corporation and is a subsidiary of Eastern Maine Healthcare Systems (EMHS), a not-for-profit profit corporation. EMMC is licensed for 411 beds. EMMC has a transfer agreement for referral services with 12 critical access hospitals in the region. EMMC is verified as a Level II trauma center by the American College of Surgeons and is one of three state designated trauma centers in Maine. EMMC serves the largest geographic service area of any referral center in the State of Maine.
- The project involves the purchase of a da Vinci Surgical System (surgical robot) to assist in the field of Radical Prostatectomy, CABG and Bariatric Surgery procedures. The cost of the system includes the equipment training in the use of the system. No facilities renovations were necessary.
- EMMC purchased the da Vinci equipment in 2004 without first applying for or getting approval from the Commissioner of the Department of Human Services for the purchase through the Certificate of Need Program as required by law. The CONU staff first learned of the purchase through an article that ran in the Bangor Daily news on December 13, 2005. EMMC was informed by the CONU that an application for CON was required to conform to statute. Because of EMMC's willingness to comply, no enforcement action was taken at that time. EMMC has continued using the equipment and performing procedures until a final decision is made on its application.

- The *Division of Licensing and Regulatory Services, Medical Facilities Unit*, confirms that Eastern Maine Medical Center is a fully licensed acute care hospital licensed in the State of Maine and is MaineCare and Medicare certified. EMMC is accredited by the Joint Commission.

The CONU has determined that the applicant is fit, willing and able to manage this project and continue to provide services at the proper standard of care.

- The applicant has determined that the capital cost for this project is \$1,330,308 resulting in third year operating costs of \$319,544. EMMC has purchased this equipment using a 100 % equity contribution. No financing was used.
- Demands on liquidity and capital structure have been adequate to support the project. Financing and turnover ratios have shown little impact on the organization as a whole from engaging in this project. The hospital has shown significant earnings which have not been significantly impacted by this project. This project did not involve a construction component requiring a Marshall and Swift comparison.

The CONU has determined that the applicant could financially support this project.

- To date the applicant has used the surgical robot to perform a large percentage of the operations in the radical prostatectomy and bariatric surgery areas. Research provided by the applicant via printed articles and data provided from actual experiences, have shown that with the surgical robot patients are experiencing better outcomes. The procedures are less invasive to the patient, blood loss is less, pain is diminished, nerve sparing is meticulous, incontinence rates are low, margin positive rates are diminished, recovery times are shorter with no complications, patients are able to return to their normal activities quickly and average length of stay in the hospital is shorter. The only drawback at this time appears to be that the time spent in the OR appears to be longer with the robot. It is expected over time as a physician becomes more adept and skilled at using the robot, time spent in the OR will be reduced.

The CONU has determined that EMMC has demonstrated a need for the proposed project.

- *Maine Bureau of Insurance* estimated that the maximum impact of this CON project on private health insurance premiums in EMMC's service area for the project's third year of operation will be approximately \$0.047 per \$100 (.047%) of premium. They further estimate that this project, in its third year of operation, will have a maximum impact on statewide private health insurance premiums of approximately \$0.012 per \$100 (0.012% of premium). This is a minimal financial impact to third party payors.
- Total 3rd year incremental operating costs are projected to be \$319,544 (Depreciation and Maintenance Costs) and of that amount MaineCare's 3rd year cost is \$4,154 (\$319,544 x 1.30% (MaineCare payor mix)), which is both the Federal and State portions combined. Currently the impact to the State portion of the budget per year would be approximately \$945 (\$4,154 x 35%) if MaineCare reimbursed 100% of costs. The

CONU recognizes that MaineCare does not reimburse 100% of its' share of the costs to EMMC therefore, the actual impact on the budget would be somewhere less than \$945.

The CONU has determined that the proposed services are consistent with the orderly and economic development of health facilities and health resources for the state.

- The CONU concurs with the assessment from the *Maine Center for Disease Control and Prevention*. The CONU has evaluated this proposal against the criteria set forth in the 2007 State Health Plan. Our conclusion notes that this project addresses several of the criteria:
- EMMC has demonstrated it will protect public health and safety and contributes to lower cost of care and great efficiencies as surgery is less invasive for the patient, recovery times are reduced, less blood loss and inpatient stays are shorter.
- EMMC has demonstrated that this service is available to all patients including the uninsured low-income,
- EMMC has demonstrated that this project exercises less than a 0.5% increase on regional insurance premiums as stated by the assessment from the Bureau of Insurance.

The CONU has determined that the project would be consistent with the State Health Plan.

- *Maine Quality Forum* acknowledged the use of robotic surgery is safe in the appropriate circumstances and also acknowledged EMMC intention to report of outcomes. This robotic surgery is not available to other providers in EMMC's service area.

The CONU has determined that this project would ensure high-quality outcomes and does not negatively affect the quality of care provided by existing service providers.

- The CONU has determined that patients needing these operations would not increase just because of the surgical robot. The surgical robot is used for better outcomes for patients not to increase surgeries being performed.

The CONU has determined that this project would not result in inappropriate increases in service utilization.

- An amount of \$319,544 will be charged against the Capital Investment Fund from the hospital small review cycle for FY 2007. The total approved capital cost for this project if approved is \$1,330,308.

The CONU has determined that this project could be funded within the Capital Investment Fund.

HIGHLIGHTS:

Letter of Intent dated May 3, 2006
Subject to CON review letter issued May 8, 2006
Technical Assistance Meeting held on June 15, 2006
Application filed on October 13, 2006
Application certified complete on November 6, 2006
Application placed in review cycle on April 1, 2007
Applicant's public informational meeting held on November 17, 2006
A public hearing was not requested
Preliminary analysis released on August 29, 2007
Preliminary analysis published in newspapers on September 2, 2007
Record closed on September 17, 2007
No public comments were received

CONU CONCLUSION:

For all the reasons set forth in the Preliminary review, based solely on review of the record, we conclude that the review criteria have been satisfied as follows:

- The applicant is fit, willing and able to provide the proposed services at the proper standard of care.
- The economic feasibility of the proposed services has been demonstrated.
- A public need for the proposed services has been demonstrated.
- The proposed services are consistent with the orderly and economic development of health facilities and health resources for the State.
- The proposed project is consistent with the State Health Plan.
- The proposed project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers.
- The proposed project does not result in inappropriate increases in service utilization.
- The proposed project can be funded within the Capital Investment Fund.

RECOMMENDATION: The Certificate of Need Unit recommends this proposal be **Approved with the following conditions:**

- 1) The applicant should volunteer to pay the Department a sum \$5,000 in lieu of the Department taking civil action against the applicant to recover the withholding of all funds received by the applicant prior to CON approval and for any civil penalty for violation of CON statutes. This condition was included in the published preliminary review. No objections were received from the applicant.

- 2) The applicant should work with the Maine Quality Forum to develop a database to help quantify savings in the system associated with the use of this new technology; and report outcomes of procedures using this technology.

Capital Costs

\$1,330,308

\$ 0

\$1,330,308

Capital Costs As Proposed

Contingency

Total Approved Capital Costs

Incremental
3rd Year Costs

\$319,544

Approved Incremental Costs as Proposed

Capital Investment Fund

\$319,544

Approved CIF as Proposed Charged for FY 2007