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Commissioner

December 23, 2014

**VIA UNITED POSTAL SERVICE
OVERNIGHT DELIVERY**

Richard Freeman
President and Chief Executive Officer
Robert Wood Johnson University Hospital at Hamilton
One Hamilton Place
Hamilton, New Jersey 08690

Re: CN# FR 14 1001-11-01
Close Four Intermediate Bassinets and
Remove CPC-Intermediate Designation
Expiration Date: December 23, 2019

Dear Mr. Freeman:

I am approving Robert Wood Johnson University Hospital at Hamilton's (Hamilton) certificate of need (CN) FR 14 1001-11-01 to close four intermediate bassinets and remove its Community Perinatal Center (CPC)-Intermediate designation. Hamilton is also seeking to eliminate its 28 obstetric (OB) beds and normal newborn bassinets through licensure amendment, which is not subject to this CN decision letter. No renovations or capital expenditures will be required to complete this project. Upon project completion, Hamilton would no longer maintain maternal and child health services at its facility.

I note for the record that Hamilton is proposing to close all maternal and child health services, though the CN application before me is for the closure of four intermediate bassinets and the CPC-Intermediate designation. Basic OB services are not a CN regulated service; therefore closure of a basic OB service only requires licensure approval from the Department of Health (Department). The entire maternal and child health service line is presented in Hamilton's CN application because the ability of a hospital to maintain intermediate bassinets requires the presence of a licensed OB service.

I also note for the record that my decision to approve Hamilton’s application is consistent with the recommendations of the State Health Planning Board (SHPB), which recommended approval of Hamilton’s application with conditions at its December 11, 2014 meeting.

The Department has the central responsibility for hospital and health care services pursuant to the Health Care Facilities Planning Act (Act), N.J.S.A. 26:2H-1 et seq. The Department issued a Notice of Invitation (Call) for CN (See, 46 N.J.R. 647(b)) on April 7, 2014, inviting applications for the establishment or addition of maternal and child health services including regional perinatal center (RPC) designation, seven intermediate and 15 intensive bassinets in Mercer and contiguous counties to replace those services currently located at Capital Health System (Capital) at Fuld. Hamilton filed a CN for the addition of four intermediate bassinets, but later withdrew its application after deciding to file a CN application for closure of its existing four intermediate bassinets and CPC-Intermediate designation, which is the subject of this CN decision letter. Though Hamilton’s CN to close its four intermediate bassinets and CPC-Intermediate designation is not responsive to the Call, which is the subject of a separate CN decision letter also under my consideration, Hamilton’s CN impacts the service area and the applicants within the Call. For these reasons, I consider in my decision-making for the Hamilton CN to close intermediate bassinets and services, the impact Hamilton’s closure may have on applicants responsive to the CN Call; that is, Capital and University Medical Center of Princeton at Plainsboro’s (Princeton). The following tables demonstrate the bassinet allocation before and after the proposed reconfigurations:

Table 1
 Existing Bassinet Allocation

	Fuld	Hopewell	Princeton	Hamilton	Totals
Intermediate	7	12	14	4	37
Intensive	15	0	0	0	15
Total	22	12	14	4	52

Table 2
 Final Bassinet Allocation Based on Existing and CN Approved Bassinets

	Fuld	Hopewell	Princeton	Hamilton	Totals
Intermediate	0	15 (12 existing/3 new)	8 (existing)	0	23
Intensive	0	12 (new)	6 (new)	0	18
Total	0	27	14	0	41

I take into consideration that Hamilton’s Board of Trustees and Senior Management made the decision to close its maternal and child health services recognizing that OB volumes are projected to continue to decrease and that OB service line losses would increase in each subsequent year. Hamilton claims closing the OB service line would promote its future financial stability and its ability to meet the health

care needs of the service area. Hamilton purports that rapidly declining OB census, coupled with diminished market share and the high fixed costs of staffing and operating both basic OB and intermediate bassinet services have created significant financial challenges for Hamilton. Hamilton determined that reducing the service based on diminishing volume and reduced OB provider coverage would be cost prohibitive based on the fixed cost of staffing and operating OB services. Hamilton states that operating at reduced services could well threaten to compromise quality and patient safety.

In reaching my decision on Hamilton's application, I have considered the statutory criteria for CN review enumerated in the Health Care Facilities Planning Act (N.J.S.A. 26:2H-8); the rules governing the CN process (N.J.A.C. 8:33-1.1 et seq.); Certificate of Need and Licensure Requirements for Regionalized Perinatal Services and Maternal and Child Health Consortium (N.J.A.C. 8:33C); and Department staff recommendations, which are in collaboration with the Department's Division of Family Health Services. Additionally, I carefully reviewed the SHPB's recommendations from its December 11, 2014 meeting, including the incorporation of the December 10, 2014 agreement between Capital and Hamilton titled "Capital Health and RWJ Hamilton OB/Neonatal Transition Terms" into Hamilton's CN conditions.

N.J.S.A. 26:2H-8, as well as N.J.A.C. 8:33-4.9(a), provide for the issuance of a CN only where the action proposed in the application for such CN is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, will not have an adverse economic or financial impact on the delivery of health services in the region or statewide, and will contribute to the orderly development of adequate and effective health care services. In making such determinations, I must take into consideration (a) the availability of facilities or services which may serve as alternatives or substitutes, (b) the need for special equipment and services in the area, (c) the possible economies and improvement in services to be anticipated from the operation of joint central services, (d) the adequacy of financial resources and sources of present and future revenues, (e) the availability of sufficient manpower in the several professional disciplines, and (f) such other factors as may be established by regulation.

I take into consideration the statutory requirements to determine whether the actions proposed would have an adverse economic or financial impact on the delivery of health services in the region. I recognize that births in the Hamilton and surrounding service area have declined in the past several years, from 7,471 births in 2007 to 6,400 in 2012 (14.3% decline) and Hamilton's market share of those births has also declined, from 1,401 births in 2009 to 1,038 in 2012, with a projection of 939 births in 2014. The changing demographics of Hamilton's service area suggests to me that the demand for maternal and child health services will continue to decrease in the coming years. I am convinced that the approval of Hamilton's CN to close four intermediate bassinets will improve Hamilton's operating margins so that it can enhance other core services. I also consider that Capital has demonstrated in its CN under my review, that it has sufficient

capacity at its Hopewell campus to meet the maternity needs of those patients that have historically given birth at its Fuld campus, in addition to the potential of 900-1,000 annual births related to Hamilton's proposed closure of services. Princeton has also demonstrated a willingness and an ability to absorb service demands due to Hamilton's closure of services. I am satisfied that the closure of four intermediate bassinets and the CPC-Intermediate designation at Hamilton will not have an adverse economic or financial impact on Hamilton's service area.

N.J.S.A. 26:2H-8(a) requires that I take into consideration the availability of facilities or services that may serve as alternatives or substitutes. The applicant states that Capital's Hopewell campus (12.28 miles and 15 minutes from Hamilton) and Princeton (10.94 miles and 15 minutes from Hamilton) provide comprehensive arrays of OB and neonatal services and also employ and manage numerous primary care practices in the service area. Capital is the region's RPC and Hamilton is affiliated with Robert Wood Johnson University Hospital (RWJUH) in New Brunswick, which is also an RPC. All serve as alternatives to Hamilton's service. Therefore, I have determined that there are other alternatives to maternal and child health services for the residents of Hamilton's service area.

With regard to the need for special services or equipment within the area to be served (N.J.S.A. 26:2H-8(b)), Hamilton states that no additional equipment or services will be required as a result of approval of this project. Consideration must also be given to possible economies and improvements to be anticipated from the operation of joint central services (N.J.S.A. 26:2H-8(c)). Hamilton states that the elimination of underutilized beds and services will improve efficiencies at other area providers (i.e., Capital and Princeton) by increasing volumes. With respect to the adequacy of financial resources and sources of present and future revenues (N.J.S.A. 26:2H-8(d)), the applicant states that rapidly declining OB census, coupled with diminished market share and the high fixed costs of staffing and operating both basic OB and intermediate bassinet services have created significant financial challenges for Hamilton. Eliminating this loss will go a long way toward promoting Hamilton's future financial stability and ability to meet the health care needs of the service area. The Department's financial analysis revealed that the applicant possesses the financial resources to undertake and sustain the proposal as presented.

Finally, consideration must be given to the availability of sufficient manpower in the several professional disciplines needed to provide the requested services (N.J.S.A. 26:2H-8(e)). The proposed project will eliminate the OB and intermediate bassinet service; therefore, no additional staff will be required to complete this project. The applicant states that approximately 88 full time/part-time/PRN staff will be affected by the proposed closure of the OB service and the 4-intermediate bassinet unit. Hamilton states that it is working to place appropriate candidates internally as well as working with RWJUH for job opportunities within the Robert Wood Johnson System. Hamilton

states that it has also been in discussion with Capital regarding available positions and that it will be conducting outplacement sessions and additional transition planning.

I have also taken into consideration the applicable regulations for the services subject to full review (N.J.A.C. 8:33-4.10). I find that the applicant has provided an appropriate project description, which includes information as to the total project cost, operating costs and revenues, services affected, equipment involved, source of funds, utilization statistics, and justification for the proposed project; assurance that all residents of the area, particularly the medically underserved, will have access to services; and documentation that they will meet appropriate licensing and construction standards. In addition, the applicant demonstrated a track record of substantial compliance with the Department's licensing standards.

I take into consideration that Hamilton's application for the closure of 4 intermediate bassinets and its CPC-Intermediate designation meets statutory (N.J.S.A. 26:2H-1 et seq.) and regulatory (N.J.A.C. 8:33-3.2) criteria requirements for termination/discontinuance of a CN regulated service. In making my decision, I also consider that Hamilton's Board of Trustees exercised its fiduciary duty in researching, reviewing and discussing proposals to address the closure of all maternal and child health services and recommended that the proposed project best meets the needs of the community.

I also find that Hamilton has adequately addressed access and continuity of care during the transition of the proposed closure of its maternal and child health service, which includes the closure of OB services through licensure. In accordance with N.J.A.C. 8:33C, Hamilton has existing transfer agreements with two RPCs, Capital and RWJUH. Hamilton also executed a December 10, 2014 agreement with Capital, which will maintain access to prenatal clinic services through Capital's acceptance of patients from Hamilton into Capital's outpatient prenatal clinic and acceptance of high risk transfers from Hamilton's outpatient prenatal clinic for continued prenatal care at Capital until Hamilton's outpatient prenatal clinic closes. Hamilton has also agreed to subsidize Capital's outpatient prenatal clinic expansion in an amount up to \$200,000 per year for up to two years in the event Henry J. Austin Family Health Center (Austin), a federally qualified health center (FQHC) located in Trenton, is unable or unwilling to provide a new outpatient prenatal clinic. Hamilton has agreed to continue OB physician and certified nurse midwife (CNM) coverage to provide services at Hamilton's outpatient prenatal clinic as long as the clinic is in operation. Hamilton agrees to conduct case conferences with Capital to review Hamilton's outpatient prenatal cases and to provide Capital with the prenatal records of Hamilton's outpatient prenatal cases receiving care at Capital.

As part of the review process of a CN regulated service, the SHPB is required to hold at least one public hearing in the service area of the health care facility within 30 days of the application being declared complete by the Department. The SHPB held a public meeting at Steinart High School-East in Hamilton on November 24, 2014.

Approximately twenty-five people attended the meeting. Nine attendees spoke at the meeting, including several Hamilton executives, staff and physicians and one consumer. All speakers spoke in favor of the closure citing changing demographics and the declining current and projected birth rate in the service area. The SHPB also provided an opportunity for public comment on Hamilton's proposed closure at its December 11, 2014 meeting. No one provided public comment at the SHPB meeting regarding Hamilton's application.

At its December 11, 2014 meeting, the SHPB recommended approval of Hamilton's application to close 4 intermediate bassinets and its CPC-Intermediate perinatal designation. The SHPB based its recommendation on Hamilton's declining OB census coupled with Hamilton's diminished market share and the high fixed costs of staffing and operating both basic OB services and intermediate bassinets which Hamilton states creates significant financial challenges. On December 10, 2014, Capital and Hamilton entered into an agreement titled "Capital Health and RWJ Hamilton OB/Neonatal Transition Terms" (agreement), regarding prenatal clinic services during the transition of Hamilton's maternal and child health services closure, including its outpatient prenatal clinic. As this agreement was executed after the release of the Department staff recommendations, the details of this agreement were incorporated into the SHPB recommendations as modifications to the Department staff recommended conditions. The SHPB approved the conditions recommended by Department staff, amended to include conditions incorporating the terms of the December 10, 2014 agreement.

Therefore, in consideration of the SHPB's recommendations, I am approving with conditions Hamilton's application to close its four intermediate bassinets and remove its CPC-Intermediate designation. Hamilton's approval is subject to the following conditions:

1. Hamilton shall submit a detailed communication plan to the Department's Certificate of Need and Healthcare Facility Licensure (CNHFL) Program for review and approval within 30 days of CN approval and prior to closure of the service. The purpose of the communication plan is to inform all residents in Mercer and contiguous counties, as well as local governments, emergency service providers and alternative area service providers, of the closure of maternal and child health services, including OB, at Hamilton and available alternative providers in the Mercer and contiguous county region. The plan shall include a mechanism for responding to questions from the public regarding implementation of the closure and transportation/access concerns with attention given to prenatal care. Written communication shall be developed and published in at least two newspapers of general circulation in Hamilton's service area. Hamilton cannot close the service until 30 days after the publication of the notices of closure in at least two newspapers.

2. Hamilton shall maintain existing intermediate bassinets at current capacity until the timeframe in Condition One has been implemented and a licensing application with CNHFL to execute the removal of the CPC-Intermediate designation and closure of the four intermediate bassinets is approved.
3. As stipulated in the December 10, 2014 agreement between Capital and Hamilton, Hamilton shall provide an OB physician to serve as the collaborating physician to the Hamilton certified midwife (CNM) and Hamilton's outpatient prenatal clinic as long as the clinic continues in operation under Hamilton. Responsibilities of the collaborating physician shall include providing consultative services to the CNM and screening for high risk patients requiring a higher level of care.
4. As stipulated in the December 10, 2014 agreement between Capital and Hamilton, Hamilton shall assist its existing and new clinic OB patients to identify and switch to acceptable insurance plan coverage that will best meet their needs in order to assure a seamless transition to alternate providers as needed.
5. Hamilton shall provide free taxi services for laboring patients or patients needing advanced maternal-fetal medicine services that are under care of Hamilton's clinic and lack access to private transportation or ambulance services as long as the clinic continues operation under Hamilton.
6. As stipulated in the December 10, 2014 agreement between Capital and Hamilton, in the event Austin is unable or unwilling to proceed with the creation of a new outpatient prenatal clinic under its operation, Capital shall expand capacity to provide outpatient prenatal and OB care for the community it serves. Hamilton shall provide Capital a subsidy of up to \$200,000 per year for 2 years to cover incremental operating expenses for the expansion of Capital's outpatient prenatal clinic services. The 2-year financial agreement between Capital and Hamilton shall begin upon Austin's written notice to Capital of its intent not to proceed with the creation of a new outpatient prenatal clinic under its operation, and Capital shall provide a copy of that notice to the Department's CNHFL program within 30 days of submission.
7. As stipulated in the December 10, 2014 agreement between Capital and Hamilton, Hamilton shall collaborate with Capital to conduct case conferences to review Hamilton's outpatient prenatal clinic cases. This condition shall remain in place until all cases are fully transitioned to Capital.
8. As stipulated in the December 10, 2014 agreement between Capital and Hamilton, Hamilton shall establish a mechanism that will provide Capital with the prenatal records of those patients that are transitioning to Capital's care. This mechanism shall remain in place until all cases are fully transitioned to Capital.

9. Hamilton shall continue to provide obstetric coverage and its emergency department (ED) must provide 24-hour coverage/365 days per year for access to emergency stabilization to any woman who presents in need of emergency care where delivery may or may not be imminent, and delivery services to any woman for whom birth is imminent. Following stabilization, Hamilton must arrange for the transport of the pregnant woman and, in the case of a delivery, it must arrange for the transport of the mother and the baby, to the mother's choice of hospital that provides inpatient obstetrics and the appropriate level of newborn services regardless of the patient's ability to pay.
10. All Hamilton ED physicians must maintain qualifications and credentials to provide Precipitous Newborn Delivery and all of the RN staff shall receive specific training regarding OB emergencies in the ED as part of a mandatory annual education. In addition, all RNs are required to obtain training in Neonatal Resuscitation.
11. Patient medical records related to Hamilton's closed maternal and child health services shall be maintained in accordance with N.J.S.A. 8:26:8-5 et seq. and N.J.A.C. 8:43G-15.1, following completion of the aforementioned closure. The applicant shall notify the Department's CNHFL Program in writing, specifying who is responsible for the safekeeping and accessibility of all Hamilton's patients' medical records (both active and stored) related to Hamilton's closed maternal and child health services.
12. Hamilton shall file a licensing application with the Department's CNHFL Program to execute the closure of four intermediate bassinets and its CPC-Intermediate designation. Hamilton may include in its licensure application the closure of its OB beds.
13. Hamilton shall report to the Department's CNHFL Program concerning the status of all of the conditions referenced within the time frames noted in the conditions.

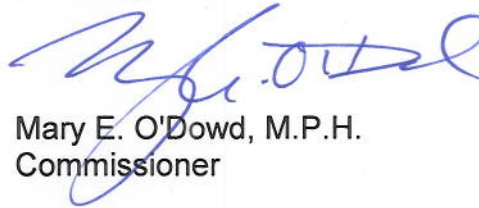
Failure to satisfy the aforementioned conditions of approval may result in sanctions, including license suspension, monetary penalties and other sanctions in accordance with N.J.S.A. 26:2H-1 et seq. and all applicable requirements. Acceptance of these conditions will be presumed unless written objections are submitted to the Department within 30 days of receipt of this letter. Upon receipt of such objections, this approval will be deemed suspended and the project shall be reexamined in light of the objections. All the above conditions shall also apply to any successor organization which may acquire Hamilton within five years from the date of CN approval.

We look forward to working with you and helping you to provide a high quality of care to the patients in the planning region. If you have any questions concerning this

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CN decision letter, please do not hesitate to telephone Mr. John A. Calabria, Director,
CNHFL Program, at (609) 292-8773.

Sincerely,



Mary E. O'Dowd, M.P.H.
Commissioner

c: Mr. Calabria