



State of New Jersey

DEPARTMENT OF HEALTH AND SENIOR SERVICES

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JON S. CORZINE
Governor

www.nj.gov/health

HEATHER HOWARD
Commissioner

January 15, 2010

VIA UNITED PARCEL SERVICE

Philip Frese, Ph.D., CPA
President & CEO
Mount Carmel Guild
590 North Seventh Street
Newark, NJ 07107

Re: Catholic Community Services
Mount Carmel Guild
CN# FR 080404-07-01
Project Cost: 0
Expiration Date: January 15, 2015

Dear Mr. Frese:

I am approving Catholic Community Services-Mount Carmel Guild's (MCG) certificate of need (CN) application for the discontinuance of its 20 bed special hospital. Specifically, this application constitutes a request to cease operation of the hospital in its entirety, which consists of 20 adult open acute psychiatric beds. MCG's license complement also consists of four licensed hospital-based outpatient facilities. It is noted that MCG would continue to provide behavioral health services at the four outpatient facilities. There are no capital costs associated with this project.

The standards that I am compelled to use in evaluating this application are set forth in statute (N.J.S.A. 26:2H-1 et seq.) and by administrative rule (N.J.A.C. 8:33). I must be satisfied that the project submitted by MCG is consistent with those requirements. Therefore, for the reasons that follow, I am approving with conditions the application submitted by MCG. I note for the record that my decision to approve this application is consistent with the recommendation of the State Health Planning Board (SHPB), which recommended approval of the project with conditions at its January 7, 2010 meeting.

N.J.S.A. 26:2H-8, as well as N.J.A.C. 8:33-4.9(a), provides for the issuance of a certificate of need only where the action proposed in the application for such certificate 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. As previously mentioned, I have also taken into consideration the recommendations made by the SHPB to approve this application. I have reviewed the CN application, transcripts of the public hearing and the SHPB meeting and received a briefing from the Department of Health and Senior Services (Department) staff covering the SHPB meeting, presentations, comments and findings.

I am also mindful that in 1992, the Legislature enacted P.L. 1992, c. 160, the "Health Care Reform Act" (HCRA) to "move in the direction of a deregulated hospital reimbursement system" and promote a "truly competitive market environment." Indeed, in the years since the HCRA became law, the health care environment has changed dramatically; among other things, it has become increasingly competitive and in many ways more financially challenging for hospitals. For example, managed care penetration has grown significantly during this period and, partly as a result of this, hospital utilization has decreased substantially. The HCRA also eliminated authority for hospital rate-setting, which in the past may have shielded hospitals from the financial consequences of their actions or inactions.

In accordance with N.J.S.A. 26:2H-5.8(c), facilities seeking to close or eliminate a health care facility or service subject to certificate of need review by SHPB are required to file a full review certificate of need application. The SHPB is also required to hold at least one public hearing in the service area of the health care facility or service proposed to be closed within 30 days of the application being declared complete by the Department. In this instance, a public hearing took place on December 15, 2009, where no members of the public attended or submitted written testimony.

As to the specifics of this application, N.J.S.A. 26:2H-8(a) requires that I consider the availability of facilities or services, which may serve as alternatives or substitutes. In Essex County, there are six general acute care hospitals that have adult open acute care psychiatric beds in addition to MCG, all of which are located within a seven mile radius of MCG. Saint Michael's Medical Center, Inc. (SMMC) is the closest hospital at 0.7 miles. University of Medicine and Dentistry of New Jersey-University Hospital is 2.0

miles away; East Orange General Hospital is 3.0 miles away; Newark Beth Israel Medical Center is 3.6 miles away; Clara Maass Medical Center is 3.9 miles away. Finally, Mountainside Hospital is the farthest at 6.3 miles. When looking at the current average daily census figures for MCG, there is a sufficient number of unoccupied licensed adult open acute psychiatric beds at SMMC alone to absorb the relatively small inpatient census at MCG. I note the letter dated, December 21, 2009 from Catholic Health East, which commits SMMC to provide care to MCG's current inpatients. Furthermore, Clara Maass has been approved to relocate 23 additional adult acute open psychiatric beds to its facility. I am confident that the proposed closure will not adversely affect access to health care services for the community, including the medically indigent and medically underserved population. Thus, I am satisfied that this criterion is met.

I also find that the requirement at N.J.S.A. 26:2H-8(b) to consider the need for special equipment and services in the area would be met in this case, since at least one or more of the area hospitals currently offer the same services provided at MCG.

With respect to N.J.S.A. 26:2H-8(c) regarding the possible economies and improvement in services to be anticipated from the operation of joint central services, this provision is not applicable since MCG would be discontinuing its services. N.J.S.A. 26:2H-8(d) requires me to examine the adequacy of financial resources and sources of present and future revenues. I believe that the closure of MCG is a responsible course of action given the hospital's poor financial condition. The fiscal forecast for the hospital showed that the continuation of hospital services is unsustainable given its severe operating losses and low utilization rate (average daily census: 2007-3.1; 2008-1.8; 2009-4.7). I agree that MCG's rationale to discontinue services at MCG is a realistic assessment of the health care environment in their service area. I also agree that any further investment in MCG would not have been cost effective to turnaround the hospital's poor financial position.

Finally, with respect to N.J.S.A. 26:2H-8(e) regarding the availability of sufficient manpower in the several professional disciplines, I am satisfied that there will be sufficient qualified personnel in this regard. Since the application proposes closure of the entire facility, adequate staffing is not an issue. However, I note the application indicates that MCG has a small staff, consisting of seven full-time and 24 part-time/per diem staff, which would effectuate the closure and be readily placed thereafter.

N.J.S.A. 26:2H-8(f) requires consideration of such other factors as may be established by regulation; therefore, I have taken into consideration the applicable administrative rules governing the services subject to full review (i.e., N.J.A.C. 8:33-1.1 et seq.). MCG is in compliance with the access requirements set forth in N.J.A.C. 8:33-1.1 et seq. and N.J.A.C. 8:33-4.10(a). Specifically, the other area hospitals will continue their services, as well as outreach efforts to low income, racial and ethnic minorities, women, and disabled, elderly and all other patients in need of prevention, diagnostic

and treatment services. The area hospitals have longstanding history and a commitment to the community to continue providing medical care and treatment for medically underserved populations. There is no indication that any of these hospitals would discontinue its commitment to preserve the same level of access to health care services for the MCG community, including the medically indigent and medically underserved population. I note that MCG's four outpatient facilities will continue to provide outpatient mental health services as well as detoxification services in Essex, Union and Hudson counties.

I have also taken into consideration the statutory requirement set forth in N.J.S.A. 26:2H-8 to determine whether the action proposed will have an adverse economic or financial impact on the delivery of health care services in the region or statewide and will contribute to the orderly development of adequate and effective health care services. I note the project will result in the formal closure of a 20 bed adult open acute psychiatric facility, which, as noted above, is severely underutilized, and that it will leave the outpatient psychiatric services intact. I conclude that the MCG's decision to close appears sound and in the best interest of the area's health care delivery system. The objectives of this closure are twofold: ensure that MCG may focus its financial resources so that its outpatient health care services remain accessible and available to the former patients at MCG and to all residents of the area and that the overall financial viability of the remaining area hospitals is strengthened.

Additionally, as previously noted, there will be sufficient regional capacity to meet the need for inpatient acute care services, even after closure of MCG. As to whether the discontinuance of acute inpatient services at MCG would contribute to the orderly development of adequate and effective health care services, I find that their discontinuance would strengthen area hospitals that are presently underutilized, contribute to rationalizing the delivery of inpatient acute care services in the region and not have any adverse impact on any hospital in either Essex County or the surrounding counties.

Based on the foregoing, and noting the approval of the SHPB, I am approving MCG's application subject to the following conditions:

1. MCG shall return its hospital license to the Department's Certificate of Need and Healthcare Facility Licensure Program within ten days of certificate of need approval.
2. Department of Human Services agreements with MCG:
 - a. 2004 Settlement Agreement: The obligations of Mount Carmel Guild (MCG) under the Settlement Agreement, dated as of April 8, 2004, between MCG, the Department of Human Services (DHS), the Division of Medical Assistance and Health Services (DMAHS), and Catholic Charities

(formerly known Catholic Community Services) (the 2004 Settlement Agreement) including the obligation to pay the amount of \$16.8 million, with a current remaining balance of \$14,184,448 which is payable over the remaining 24 year term, will be transferred from the MCG provider number to the new clinic provider number(s). The conditions specified in the 2004 Settlement Agreement, including the payment schedule, will remain unchanged. MCG must notify DMAHS within 30 days after MCG's actual closure date of the new clinic provider number(s) to be used by DMAHS for the repayment of the outstanding balance under this provision.

b. Cost Report Settlement: The 2004 final settlement balance amount of \$435,720.27 will be transferred from MCG's provider number to the new clinic provider number(s) and collected on a weekly basis at \$4,189.62. The full amount shall be repaid within 24 months. This amount may be collected over a period of less than 24 months based on the financial condition of MCG and upon mutual agreement between MCG and DMAHS.

The 2006 and 2007 tentative settlement amounts will be transferred from MCG's provider number to the new clinic provider number(s), and these settlement amounts will continue to be collected separately in weekly payments of 3% of processed claims. However, subject to the future financial condition of MCG, DMAHS reserves the right to renegotiate the terms of the repayment over a shorter time period. Upon final settlement of these audit years, full repayment shall be processed within 60 days of notification from DMAHS.

Any remaining undetermined cost report settlements relating to MCG will be processed against the new clinic provider number(s) and will be subject to repayment within 60 days of notification from DMAHS. If any remaining undetermined settlement is an amount due to MCG by DMAHS, this amount will be applied to the outstanding balances due to DMAHS as described above.

3. MCG shall notify the Department's Office of Certificate of Need & Healthcare Facility Licensure, in writing, specifically who is responsible for the safekeeping and accessibility of all MCG inpatient medical records (both active and stored) in accordance with N.J.S.A. 26-8.5 and N.J.A.C. 8:43G-15.2.
4. MCG shall provide a detailed description, in writing of the process to obtain a copy of a complete medical record, inclusive of electronic and hard copy components and the projected timeframe from request to receipt of the same.

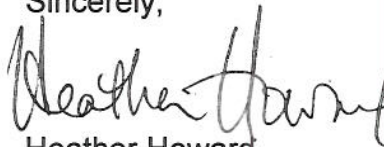
5. MCG shall provide a detailed plan for public notification regarding the process to obtain a copy of a complete medical record. Public notification must occur on a weekly basis over the course of a three month period, commencing on the date of the approval of the closure of MCG by the Commissioner of Health.
6. MCG shall document efforts to offer job placement or opportunities for employment to existing MCG staff.

Please be advised that this approval is limited to the application as presented and reviewed. The application, related correspondence, and any completeness questions and responses are incorporated and made a part of this approval.

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 other 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.

If you have any questions concerning this certificate of need, please do not hesitate to contact John Calabria, Director, Office of Certificate of Need and Healthcare Facility Licensure, at (609) 292-8773.

Sincerely,



Heather Howard
Commissioner

c: John A. Calabria