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June 24, 2014

Ms. Donna Jerry
Green Mountain Care Board
89 Main Street
Montpelier, VT 05620-3101

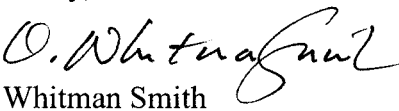
Re: *In re Fletcher Allen Health Care, Inc., Burlington Property Acquisition*
Docket No. GMCB-015-14con

Dear Donna:

Enclosed for filing in the above matter please find the original of the Request for Interested Party Status, including Exhibit 1, submitted on behalf of the HowardCenter, Inc.

Thank you for your time and attention to this matter.

Sincerely,


O. Whitman Smith

OWS:gf

Enclosures

cc: Michael N. Donofrio, Esq. (pdf format)
Spencer R. Knapp, Esq. (pdf format)
Steven J. Klein, Esq. (pdf format)
Lila Richardson, Esq. (pdf format)
Kaili Minda Kuiper, Esq. (pdf format)
Robert W. Bick, Director



STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

IN RE FLETCHER ALLEN HEALTH)
CARE, INC., BURLINGTON PROPERTY)
ACQUISITION) Docket No. GMCB-015-14con
)

REQUEST FOR INTERESTED PARTY STATUS

NOW COMES HowardCenter, Inc. (“HowardCenter”) and hereby requests designation as an interested party in the above-captioned Certificate of Need (“CON”) proceeding. This Request is submitted in accordance with 18 V.S.A. § 9440(c)(7) and Green Mountain Care Board (“GMCB”) Rule 4.406.

I. Statement of Requestor’s Interest

HowardCenter is a non-profit corporation with a principal place of business in Burlington, Vermont. It has distinct legal and programmatic interests in the present matter which likely will be substantially and directly impacted by the project under review, as is described in detail below.

A. Legal Interest

Under Vermont statutes, specified State officials are charged with ensuring “that community services to mentally ill and developmentally disabled persons throughout the state are provided through designated community mental health agencies.” 18 V.S.A. §8907(a). In the case of the HowardCenter, those officials have denoted it as the Designated Agency to provide mental health and developmental services to residents of Chittenden County. That designation carries with it specific statutory obligations including the responsibility “to provide or arrange for the provision of

these services.” *Id.*¹

To this end, State law charges each Designated Agency with undertaking certain planning activities. For Chittenden County, HowardCenter is obligated to “prepare a local community services plan which describes the methods by which the agency will provide those services.” *Id.* A related provision, 18 V.S.A. § 8909(b), reaffirms this obligation and requires the designated agency to consult with a variety of governmental, advocacy, and client groups in determining the service needs of the community and service priorities. The local services plan ultimately must “encourage utilization of existing agencies, professional personnel and public funds at both state and local levels in order to improve the effectiveness of mental health . . . services and to prevent unnecessary duplication of expenditures.” *Id.* Failure to do so or to implement such a plan of services can result in a range of sanctions, including loss of designated agency status. 18 V.S.A. § 8911.

Of particular relevance to the current CON Application is the specific obligation the HowardCenter bears with respect to any new or additional mental health services. The local community services plan drafted by the agency must “include a schedule for the anticipated provision of new or additional services and shall specify the resources which are needed by and available to the agency to implement the plan.” 18 V.S.A. § 8908.² In short, Vermont law directs

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The overarching mandate established by State law for an agency like the HowardCenter is to “plan, develop, and provide or otherwise arrange for those community mental health . . . services that are not assigned by law to the exclusive jurisdiction of another agency and which are needed by and not otherwise available to persons with mental illness . . . who reside within the geographic area served by the agency.” 18 V.S.A. § 8907(b). This responsibility encompasses the determination of “the need for community mental health . . . services within the area served” by the HowardCenter. 18 V.S.A. § 8908.

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To insure the responsiveness of such Designated Agencies, the Vermont Legislature requires such non-profit organizations to ensure that a majority of their boards of directors consists of current or former

that the HowardCenter, as the Designated Agency for Chittenden County, be involved in the planning and implementation of all mental health services within that geographic area, thus vesting it with a valid legal interest in the present proceeding.

B. Programmatic Interest

HowardCenter directly provides a wide-array of human services to adults and children in Chittenden, Franklin, Grand Isle, and Rutland Counties and also provides additional substance abuse and mental health services in partnership with other agencies in Washington County. Within Chittenden County, HowardCenter is the preeminent provider of mental health services. It offers crisis services for adults, children and adolescents, and families who experience mental health and behavioral emergencies. HowardCenter screeners make the initial determination as to whether individuals in such crises warrant care in an in-patient or an out-patient setting. Its Community Support Program serves adults diagnosed with a major mental illness with a range of out-patient programs. In terms of the number of clients served, the scope of services offered, the number of clinicians employed, and the total amount of funds spent on such treatment, HowardCenter is the largest community mental health agency in the State of Vermont.³

The HowardCenter also offers a variety of substance abuse treatment programs for those individuals in need of such services. Indeed, the agency is the paramount provider of substance abuse services in northwestern Vermont. It is designated as a "preferred provider" of substance abuse services by the Vermont Department of Health's Office of Alcohol and Drug Abuse Programs.

clients with disabilities or their family members. 18 V.S.A. § 8909(a).

³ A listing of the programs and services available through the agency is attached as Exhibit 1. It affords the Green Mountain Care Board ("Board") with a sense of the nature and scope of the programs offered by this non-profit organization.

C. Relation to Fletcher Allen Health Care, Inc. (“FAHC”)

There are numerous areas in which HowardCenter collaborates with FAHC in the provision of services. For example, the agency contracts with FAHC to provide a psychiatrist who serves as Medical Director of Mental Health Crisis Services. In turn, HowardCenter’s Crisis Screeners play a critical role in providing assessment and referrals for those patients with a psychiatric diagnosis who are admitted to FAHC’s Emergency Department.

With respect to substance abuse services, HowardCenter subleases space in the former DeGoesbriand Unit, identified in the present CON Application as the UHC Campus. A portion of the HowardCenter’s methadone treatment program, the Chittenden Clinic, is located at this site. The Medical Director of that Clinic also provides services to FAHC patients; he develops treatment programs for pregnant women with addictions being served by FAHC. In addition, under the Hub and Spoke model delineated in the Blueprint for Health, FAHC and HowardCenter provide joint support to those primary care providers administering buprenorphine to their patients.

In other areas, both FAHC and HowardCenter offer comparable services. The UHC Campus, for example, currently houses the Day One Program, the Seneca Program, and out-patient psychiatric and children’s psychological services. CON Application at 18. HowardCenter operates similar in-patient and out-patient programs in each of these areas which serve the same types of patients.

Exhibit 1.

II. Relevance of Certificate of Need Criteria

According to the June 2, 2014 CON Application, FAHC seeks to purchase several properties located in the City of South Burlington, Vermont (collectively the “Property”), valued in the neighborhood of \$52 million. CON Application at 1. It carefully delineates the scope of the

application: “[t]he Project involves only the purchase of the Property.” It does not encompass new health care facilities or programs. CON Application at 1.

The CON Application subsequently indicates that certain programs now housed on the Fanny Allen Campus and the UHC Campus will be moved to the Property. CON Application at 14, 15, and 17-18. Those programs slated for relocation include the behavioral health services noted above; they appear to be part of a proposed Outpatient Campus at the Property. CON Application at 17-18.

In its CON Application, FAHC has made a solid case for the acquisition of the Property. But the Application does not specify in any detail the future uses of the Property. There is only skeletal information about the programs and services to be provided at the Property, and no identification of which programs and services will be expanded, revised, or contracted and which patient populations would be so impacted.

The global statements of intent in the CON Application on the issue of prospective use do not permit HowardCenter to properly assess this Project within the context of existing CON criteria. By limiting the CON Application to the question of the purchase of the Property rather than identifying its prospective use in meaningful detail, FAHC has made it difficult for HowardCenter, other entities, and the Board to fully evaluate and measure the ultimate impact of the Project on the State’s health care system.

It is in this context that HowardCenter addresses the relevant statutory provisions, particularly 18 V.S.A. § 9437, and regulatory criteria governing the present CON Application. The interests of the organization with respect to these criteria are set forth below.

1. 18 V.S.A. § 9437(6) mandates a showing of public good with respect to any proposed project. In turn, GMCB Rule 4.402 identifies multiple factors to be considered in assessing the

public good standard.

Subsection 3(c) specifies, in part, that an applicant must demonstrate that “the project furthers effective integration and coordination of health care services.” The CON Application does not appear to directly address this criterion with respect to service providers other than FAHC. The HowardCenter is concerned that there has not been greater collaboration between it and FAHC with respect to the Project. The present Request for Interested Party Status is intended, in good measure, to ensure the ability of HowardCenter, as the area’s primary provider of behavioral health services, to coordinate with FAHC as to its future uses of the Property.

2. As the CON Application appropriately stresses, 18 V.S.A. § 9437(2) requires that the cost of any project must be reasonable. FAHC has made a compelling case on this issue. CON Application at 13-15. But it has done so only within the constricted context noted above. HowardCenter respectfully suggests that a determination of the ultimate costs of the FAHC proposal should not be divorced from the issue of the prospective use of the Property and its long-term impact on both the health care system and providers like the HowardCenter.

There may well be future substantial costs associated with the Project that have not been identified or addressed by FAHC because of its focus on the purchase of the real estate. The relocation of many behavioral health services to an Out-Patient Campus in a suburban setting, for example, may well have unintended negative consequences. The distance of the Project from the population center of the region and the apparent current lack of adequate public transportation to the Property stand as obvious factors not fully analyzed by the CON Application. *See* 18 V.S.A. § 9437(7). The relocation of FAHC’s behavioral health services from its current Burlington location to a suburban campus may well functionally deter those individuals with limited resources from

seeking or continuing such care, thus implicating the statutory requirement that a proposal “provide greater access to health care for Vermont’s residents. . .” 18 V.S.A. § 9437(4). For these reasons, HowardCenter sites its programs in Burlington and those South Burlington locations where public transportation is fully available.

The proposed Project thus has the potential to unintentionally create potential barriers for those patients with mental health and substance abuse issues to obtain services in a readily accessible urban location. Such a result would likely have a distinct impact on the HowardCenter by increasing the number of patients seeking services while lowering the proportion of such patients with the financial resources or insurance coverage to pay for them. In such a scenario, one of the effective costs of the proposed Project might well be shifted from FAHC onto the HowardCenter.

The HowardCenter accordingly suggests that the Board’s review of the CON Application be broadened to amply assess use-related issues such as those noted above. Without a more thorough review, a determination of the long-term impact and costs of the Project cannot be ascertained consistent with the relevant statutory and regulatory provisions.

GMCB Rule 4.402, for example, provides ample legal justification for such an approach. Subsection 3(a) obligates an applicant to address the issue of “[w]hether the project will help the needs of medically underserved groups and the goals of universal access to health services.” Similarly, subsection 3(f) directs the Board to consider whether “the project will have an adverse impact on the ability of existing facilities to provide medically necessary services to all in need, regardless of ability to pay or location of residence.” Yet the present CON Application does not discuss these factors in any detail.

3. Subsection 3(c) of GMCB Rule 4.402 requires an assessment of whether the proposal

“furthers effective integration and coordination of health care services.” This criterion reflects, in part, the now-widely embraced principle that primary care is more successful when linked to the provision of behavioral health services such as those offered by the HowardCenter. *See also* GMCB Rule 4.402 3(b) and (d). But the CON Application proposes the relocation of FAHC’s behavioral health services to a suburban site further removed from FAHC’s Main Campus in Burlington and the bulk of the HowardCenter’s programs. Such segmentation of programs seems to be inconsistent with the principle of fully integrating mental health and substance abuse treatment services into primary care, particularly with respect to those individuals who may need in-patient care. Again, the CON Application does not appear to fully consider this issue.

In summary, HowardCenter’s financial and business interests in intervention as an interested party directly relate to multiple legal criteria. *See, e.g.*, 18 V.S.A. § 9437(2)(B), (4), (6), and (7); GMCB Rule 4.402 3(a), (b), (c), (d), and (f). For these reasons, HowardCenter has a “direct financial or other business interest in the proposed project.” GMCB Rule 4.406 3; *see also* 18 V.S.A. § 9440(c)(7).

III. Demonstration of Substantial and Direct Effect of the Proposed Project

In view of the obligations imposed on it by State statutes and the interwoven nature of the interests of HowardCenter and the requisite CON criteria, the standard for intervention as an interested party is fully satisfied in the present case. HowardCenter’s mental health treatment programs “will be substantially and directly affected by the new health care project under review.” 18 V.S.A. § 9440(c)(7). The limited Vermont case law on this subject confirms this conclusion and amply supports HowardCenter’s request. *See In re Professional Nurses Service Application for a Certificate of Need*, 2006 VT 112, ¶ 2, 180 Vt. 479, 481, 913 A.2d 381, 384 (In a CON application

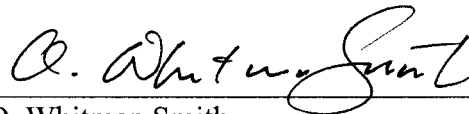
involving home health care services, the Commissioner of Banking, Insurance, Securities and Health Care Administration granted interested party status to twelve regional home health care agencies and their umbrella organization).

IV. Conclusion

In its Annual Report for 2014, the Board emphasized the importance of targeting those portions of the health care system that have not traditionally been accorded “equitable attention and support. . .” GMCB Annual Report (January 25, 2014), at 30. The Board went on to note that “Vermonters’ unmet needs for mental health and substance abuse services have moved front and center on the public stage. In 2014, the GMCB intends to dedicate additional time and attention to this piece of our state’s fragmented health care system.” *Id.*

The FAHC CON Application presents a pivotal opportunity for the Board to act on that commitment. For all the reasons referenced above, the perspective of the primary provider of mental health and substance abuse services in Chittenden County warrants consideration by the Board in the current proceeding. Accordingly, HowardCenter, Inc., respectfully requests that it be designated as an interested party in the above-captioned matter pursuant to 18 V.S.A. § 9440(c)(7) and GMCB Rule 4.406.

Dated at Burlington, Vermont this 24th day of June, 2014.



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COUNSEL FOR HOWARDCENTER, INC.

AFFIRMATION

I have read the above Request for Interested Party Status, and I affirm the truthfulness of the factual statements contained in it.

So sworn to at Burlington, Vermont, this 24th day of June, 2014.

Robert W. Bick

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

So appeared before me at Burlington, Vermont, this 24th day of June, 2014, Robert W. Bick, Director of Mental Health and Substance Abuse Services for HowardCenter, Inc., and made oath as to the truth of the factual statements contained in the foregoing Request for Interested Party Status.

Ronda L. Orr
Notary Public

My Commission Expires: 2/10/15



HowardCenter offers life-saving professional crisis and counseling services to children and adults; therapeutic interventions and education programs for children with emotional and behavioral issues; supportive services to individuals with autism and intellectual disabilities who need help with education, employment, and life maintenance skills; and counseling and medical services for adults struggling with substance abuse and mental health issues. More than 15,000 clients and community members every year turn to us for services that help them become healthier and more independent.

HowardCenter is a private, nonprofit organization governed by a volunteer Board of Trustees. Founded in 1873 as an agency serving children of the destitute, it is now the largest community-based center providing mental health, developmental disabilities, substance abuse, and child and family treatment services in the State of Vermont. In 1994, the Baird Center for Children and Families and Champlain Drug and Alcohol Services united with Howard Center for Human Services to bring the strengths of their boards, staffs, and service delivery systems to the merged organization.

FY14 budget \$81,885,789
Employees.....740 FT, 222 PT
7,878 clients and 7,100+ community members served in FY13

SERVICE AREAS

Child, Youth and Family Services provides prevention, assessment, treatment, and educational services and support to children and youth and their families. Programs include First Call for Children and Families, a 24/7 crisis service; community-based options including counseling, case management, intensive family-based services and school-based services; day treatment and special education services; residential programs including crisis stabilization and assessment as well as longer-term treatment; Centerpoint, a substance abuse and mental health program for adolescents; community mentoring; and early childhood mental health services. (802) 488-6600.

Developmental Services offers services and supports for individuals with autism and developmental disabilities that promote their growth and expression and enable them to live as active and valued members of their communities. Services are tailored to meet individual and family needs and may be a vital support system throughout a person’s life. They include residential services, family supports, vocational services, community inclusion activities, and transition and crisis services. (802) 488-6500.

Mental Health and Substance Abuse Services serves members of the community who are experiencing the effects of acute or severe emotional distress, including mental illness, and individuals who are experiencing the negative effects of the abuse of alcohol or other drugs. Services include intensive community supports so that individuals with mental illness can live successfully in the community; outpatient mental health and substance abuse counseling; medication-assisted treatment for opioid addiction; therapy and community education and prevention services; the ACT 1/Bridge and CRASH programs; and Crisis Services of Chittenden County. (802) 488-6100.

CRISIS SERVICES CONTACT NUMBERS

Adult Crisis Line: (802) 488-6400

Alcohol Crisis Team: (802) 488-6425

First Call for Children and Families: (802) 488-7777

BOARD OFFICERS

President – Mark Baglini

Vice President – Elizabeth Bassett

Treasurer – Matthew Frazee

Secretary – Marna Tulin

KEY PERSONNEL

Executive Director – Todd Centybear

Medical Director – Sandra Steingard, MD

Director, Child, Youth and Family Services – Catherine Simonson

Director, Developmental Services – Marie Zura

Director, Mental Health & Substance Abuse Services – Bob Bick

Director, Finance and Administration – Sandy McGuire

Director, Operations – Lorraine Jenne

Director, Development and Communications – Deborah Shenk

PARTNERSHIPS

We maintain important service partnerships with many organizations, including Fletcher Allen Health Care, Community Health Center, Committee on Temporary Shelter, Visiting Nurse Association, Spectrum Youth and Family Services, all nine Chittenden County School Districts and over 45 local schools, and local non-profit affordable housing providers. We work with merchants on the Church Street Marketplace in Burlington, local law enforcement agencies, and more than 90 area employers through our vocational programs. We collaborate closely with State agencies, including Department of Mental Health, Division of Alcohol and Drug Abuse Programs, Department of Corrections, Department of Education, Department for Children and Families, VocRehab Vermont, and Department of Disabilities, Aging, and Independent Living.

SERVICE LOCATIONS

HowardCenter operates from more than 60 service locations. While most programs are in Chittenden County, we also provide substance abuse services in Franklin and Grand Isle Counties. We operate a longer-term residential treatment program for adolescents in Rutland. Child, Youth and Family Services' residential and day treatment programs serve children from throughout Vermont.

FUNDING

Support for HowardCenter programs and services comes from fees for services paid by federal and private insurance programs; fees based on financial need paid by clients; state and federal grants; contracts for services; and private contributions, including United Way of Chittenden County funding.

MORE INFORMATION

Martie Majoros, Assistant Director of Communications: (802) 488-6911

Deborah Shenk, Director of Development and Communications (802) 488-6912