PUBLIC HEALTH DIVISION, Center for Health Protection
Health Care Regulation and Quality Improvement Section
Health Facility Licensing and Certification Program

Kate Brown, Governor

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

August 26, 2021

Ron Escarda
UHS of Delaware, Inc.
367 South Gulph Road
King of Prussia, PA 19406-0958

Re: NEWCO Oregon, Inc. (CN #682) – Draft Recommendation

Dear Mr. Escarda,

The Oregon Health Authority (OHA), Public Health Division's Certificate of Need (CN) program is tasked with reviewing and making decisions on CN applications. ORS 442.315(4).

On July 10, 2019, NEWCO, INC filed a CN application with the required fee for a 100-bed freestanding psychiatric hospital to be located in Wilsonville, Oregon. The application was determined complete on March 2, 2021 and review began on March 3, 2021.

The CN process is governed by Oregon Administrative Rules (OAR) 333, Divisions 545 through 670 adopted by OHA pursuant to ORS 442.315. The burden of proof for justifying the need and viability of the proposal rests with the applicant, NEWCO, Inc. OAR 333-580-0000(8). The CN division will make findings and base its decision on the extent to which the applicant demonstrates the criteria in OAR 333-580-0040 to OAR 333-580-0060 can be answered in the affirmative. OAR 333-580-0030. The criteria in OAR 333-580-0040 to OAR 333-580-0060 incorporate the demonstration of need for acute inpatient beds and facilities under OAR 333-590 and the applicable service-specific methodologies and standards in Division 615 (Demonstration of Need for Acute Psychiatric Inpatient Beds and Facilities).

DRAFT RECOMMENDATION

The draft recommendation is based on the application and supporting documents, and OHA's record. The NEWCO proposal requested approval for 100 beds. OHA finds that 60 beds are approvable for the reasons outlined below. OAR 333-570-0070(2). OHA further finds that conditions are necessary to align the approval with the most urgent community health needs in the service area. OAR 333-545-0000; OAR 333-570-0070(2).

Conditions for the approval of the NEWCO application are as follows:

1. OHA requires as a condition of licensure under ORS 441.025 that Applicant meet and maintain all requirements under OAR 309-033-0520(3) as a Class 1 facility Hospital.

2. OHA requires as a condition of ongoing licensure that Applicant dedicate 45 percent of its bed capacity to serve persons committed under ORS 426.130, or a person in custody pursuant to ORS 426.232, 426.233, or in diversion pursuant to 426.237. Applicant will demonstrate compliance with this requirement by supplying a quarterly report of discharges broken down by those meeting the criteria in (2).

3. Applicant will notify the Oregon Health Authority, Behavioral Health Program within 12 hours if it is refusing care of a patient meeting criteria (2), is uninsured, or is on Medicaid. This information will be sent to a dedicated email address provided to the applicant by OHA.

4. Expansion of bed capacity and ongoing licensure as a hospital under ORS 441.025 shall be conditioned on compliance with the above conditions in addition to any civil penalties assessed by the Division for non-compliance with the conditions pursuant to its authority under OAR 333-565-0010.

5. The conditions above will be evaluated annually and may be modified to ensure that the system needs are adequately addressed.

FINDINGS AND ANALYSIS

Only applicable criteria in CN rules are addressed below.

I. Review Criteria: OAR 333-580-0030

The applicant must demonstrate in narrative form that its proposal satisfies the criteria specified in OAR 333-580-0040 to 333-580-0060, and the service specific need methodologies and standards in divisions 580 through 645, as applicable. As this proposal is for a new inpatient psychiatric facility, the applicant must follow the methodologies specified in divisions 590 and 615.

The Oregon Health Authority (OHA) will make findings and base its decision on the extent to which the applicant demonstrates that the criteria and standards are met. The criteria will be considered to have been met if the applicant can demonstrate that the questions posed in the criteria can be answered in the affirmative. OAR 333-580-0030(2).

Applicants are encouraged to include any additional information relevant to the review criteria which was not specifically requested by OHA, but which would further support the proposal. OAR 333-580-0030(4).

II. Need: OAR 333-580-0040

1. Criterion: Does the service area population need the proposed project?

The applicant must identify the service area's need for the proposal in the past, present, and future. In establishing the magnitude of present and future need for each services element, the applicant will:

- Use appropriate indicators of a population's need (i.e. population-based use-rates, population-based "medical necessity" rates, or established productivity standards); and

- Use the standards and need methodologies specified in divisions 585 through 645 of OAR chapter 333 applicable to the services or facilities being proposed and consider industry standards and historical experience as appropriate where plans are silent.[1]

As is described in OAR 333-580-0040(1)(b)(A) and OAR 333-580-0040(1)(b)(B), the specific standards and methodology contained in OAR 333-590-0000 through 333-590-0060 for general hospital bed-need are used to determine whether the criterion in OAR 333-580-0040(1) can be met. In addition, since this application is for psychiatric inpatient beds, the standards and methodology specific to contained in OAR 333-615 must be addressed.

Determination of Service Area

Under OAR 333-590-0050(1), the service area is defined as the zip codes from which either ten percent or more of the hospital's discharges are reasonably expected to originate from, or in which the hospital would have at least a 20 percent market share. The applicant has stated that they do not expect to meet the 10/20 criterion in the collection of zip codes within Washington County, therefore, the applicant has proposed that the entirety of Washington County should be used as the service area. The applicant used Cedar Hills' 2018 discharge data to analyze patient origin and market share distribution.

[1] OAR 333-580-0040(1)(b)(A) and (B).

OHA Evaluation of Service Area

OHA finds that the proposed facility is unlikely to achieve ten percent of discharges or a 20 percent market share in the identified zip codes. The applicant evaluated Washington County zip codes from which Cedar Hills had one or more discharges in 2018. OHA finds that the applicant's use of Washington County as the relevant service area is appropriate for purposes of evaluating general acute inpatient beds. CN rules allow for the use of larger demographic units, such as counties, when these units are a better representation of population need or when data is available only at the level of such demographic data. At the current time, more accurate population level data is available at the county level in Oregon.

Determine the Population of the Service Area Identified in (a) above

The applicant has provided population data from Portland State University's Population Research Center for 2008 to 2017 (Tables 1 through Table 6, NEWCO application, pp. 20-23), along with Census data from 1990 through 2010. OHA considers the requirement of CN rules to assess data extending further into the past to be inadequate for understanding future hospital demand in Oregon. A concern here is that the supplied data, while judged sufficient by OHA to meet the regulatory CN requirement, is unreliable for understanding current, dynamic population trends that are affecting Oregon and in particular the greater Portland area. In their application, the applicant states that the service area population has had average growth rate over the last ten years of about 1.5 percent. NEWCO application, p. 418. The applicant also states that while growth rate of the population for ages 0 to 14, 15 to 44, and 45 to 64 has remained constant, the rate of growth of those individuals 65 and older is 5.7 percent for men and 5.1 percent for women. NEWCO application, p. 418. Based on a review of 2020 population estimates from Portland State University, OHA notes a growth rate of 13.5 percent between the 2017 data submitted by the applicant and 2020 Certified Population Estimates from July 1, 2020.[2] OHA agrees with applicant's assumptions regarding population growth.

Determination of Discharge and Use Rates for the Proposed Service area

The applicant has provided information on current and projected rates for their proposed service area in compliance with the requirements of OAR 333-590-0050(3).

Estimation of Future Service Area Utilization

The applicant has provided analysis under OAR 333-590-0050(3)(b) for their proposed service area. The applicant has applied a flat usage rate to future service area utilization estimates consistent with prior OHA findings. The applicant has also used

[2] https://www.pdx.edu/population-research/population-estimate-reports

population forecasts reflecting increasing population in their proposed service area. NEWCO application, p. 424.

New Versus Replacement Utilization

OAR 333-590-0050(4) directs the applicant to develop a consistent and reasonable set of assumptions regarding utilization at the proposed hospital. OAR 333-590-0050(5) directs the applicant to evaluate the advantages and disadvantages of new utilization verses replacement utilization.

With regard to the requirement of assessing new versus replacement utilization relative to Oregon Revised Statute (ORS) 442.025, as required under OAR 333-590-0050(5), the applicant has stated that they "examined other alternatives to meet the overwhelming inpatient psychiatric patient need" and as they also operate Cedar Hills Hospital, are "acutely aware of the insufficient number of psychiatric inpatient beds" which result in an overflow of patients into emergency departments. NEWCO application, p. 424. The concern in this rule section is with whether existing general inpatient beds could be converted and used to meet the proposed need. OHA finds that converting existing general inpatient beds to meet psychiatric bed need would be a superior alternative to the addition of new, psychiatric beds. Additionally, use of existing community resources is preferred under both OAR 333-590 and under OAR 333-615. Related to the alternative of converting existing general beds, a review of Certificate of Need applications and current projects in the health service area demonstrates that there are no applications or proposals to convert existing general beds to meet psychiatric inpatient needs, and the applicant does not possess any general inpatient beds that they could convert.

OHA evaluated this information and finds that the proposal here is for new utilization. OHA further finds that there are considerable disadvantages to current utilization. First, patients with mental health discharge codes are disproportionately "boarded" in emergency rooms. This has significant, negative consequences as ED boarding of psychiatric patients can have "marked negative impact on patients, on providers, and on the broader hospital and healthcare system."[3]. These impacts may be associated with long-term negative impacts to the system that CN rules are intended to target. ORS 442.015.

Calculation of Future Patient Days at the Proposed Facility

The applicant has met the criteria in OAR 333-590-0050(6) by calculating a range of future patient days relative to their proposal. NEWCO application, p. 425.

[3] https://www.acep.org/globalassets/new-pdfs/information-and-resource-papers/the-impact-of-psychiatric-boarders-on-the-emergency-department.pdf

Calculation of Bed Need

The applicant has met the criteria in OAR 333-590-0050(6) to OAR 333-590-0050(11) by applying the specified CN methodologies for their proposed service area. The applicant has proposed that, based on their data and analysis, for the next ten years there is expected to be a general acute inpatient bed surplus in the proposed service area. NEWCO application, p. 424.

Determination of Available Beds Within 50 miles

OAR-333-590-0050(12) directs the applicant, if a need is demonstrated under OAR-333-590-0050(11), to evaluate the availability of general inpatient beds within 50 miles. As need has not been demonstrated, this section does not apply.

Infeasibility of Conversion of Existing Beds for Specialty Purposes

Under OAR-333-590-0050(14), if a need for new general inpatient beds is not justified, a certificate of need will not be issued unless conversion of existing general inpatient care beds is not architecturally or economically feasible. OHA finds that the applicant has met the criteria under OAR 333-590-0050(14) by demonstrating the separate physical requirements, architecturally, for each modality. In addition, the applicant has noted that the economic cost of conversion is not feasible. NEWCO application, p. 435.

OHA's analysis demonstrates the existence of reduced reimbursement rates that may discourage partial conversion by facilities of general acute inpatient to psychiatric inpatient uses. Moreover, the applicant proposes to serve adolescents, which requires additional architectural considerations that further support the infeasibility of conversion of existing general inpatient beds. Again, as previously documented in this draft recommendation, OHA notes that no hospital in the service area has proposed or applied to convert existing general inpatient beds to psychiatric inpatient beds despite a dearth of options adequately serving those in need of acute psychiatric hospital level care.

Conclusions Under OAR-333-590-0050

The applicant has not demonstrated that a bed need under the methodologies of OAR-333-590-0050(1) to (11) currently exists or will exist within 10 years of the opening of the proposed facility. By CN rules, there is an excess of general inpatient hospital beds in the proposed service area that is sufficient in scope to meet projected need for at least the next 10 years.

Determining relationship of proposed new hospital to existing health care system under OAR 333-590-0060

Under OAR 333-590-0060, the applicant is required to apply a specified methodology for determining the relationship between their proposal and existing service area hospital resources. The applicant provided data in Table S (NEWCO application, p.

435) which shows a surplus of general inpatient bed capacity in the service area. Additionally, the applicant states that general acute care (inpatient beds) and psychiatric care require different resources and care delivery models and therefore, are not interchangeable. NEWCO application, p. 435. OHA notes that while the beds may not be "interchangeable", the beds, and the physical environment they are in, could be converted, which according to CN rules, is preferable to the construction of a freestanding psychiatric hospital. However, as previously noted, OHA does not currently have any proposals from hospitals in the service area that are proposing to convert their existing general inpatient bed capacity to psychiatric inpatient capacity. In addition to evaluating the alternative of converting existing general inpatient beds, the applicant also mentions occupancy rates at its Cedar Hills Hospital and the Unity Center, which, as the applicant states, "have very high occupancy rates." NEWCO application, p. 436. Further, the applicant states that the combination of high capacity rates at the existing psychiatric hospitals and the non-conversion of general inpatient bed capacity has "forced facilities to board patients in emergency departments." NEWCO application, p. 436.

OHA Evaluation: Currently in Oregon, there is a considerable need for psychiatric inpatient beds. This is documented by several metrics. First, there are a disproportionate number of individuals with behavioral health diagnoses who are facing inappropriate and increasing duration of emergency room "boarding." Emergency room "boarding" is defined as time spent in the emergency room after the individual is deemed appropriate for discharge to a different setting, either inpatient or outpatient. In this analysis, OHA focused on the ED boarding of individuals that exceeded 24 hours. Second, the State of Oregon is facing increased waiting times for placement of involuntary civil commitments, with many patients currently on waiting lists pending placements. Applicants propose to dedicate some of their beds to geriatric and adolescent beds. There are currently few resources for adolescents or individuals 65 and older in need of acute inpatient psychiatric care.

The concern with this proposal is the extent to which it will alleviate the issues of emergency department boarding and the placement of involuntary civil commitments. While the applicant has referenced existing contracts with CCOs in the state (NEWCO, August 8, 2018 response letter, p. 4), they do not have an existing to contract with the largest CCO in the service area. Additionally, data from its Cedar Hills facility demonstrates that it serves 12 percent of Medicaid recipients. OHA has concerns regarding NEWCO's ability to address these specific system needs which is further addressed below.

Identification of Other Service Area Providers

The applicant has identified other providers per OAR 333-590-0060(1) for use in the calculations of OAR 333-590-0060(1) to OAR 333-590-0060(11). NEWCO application, p. 435.

Estimation of Commitment Ratios

The applicant has determined the estimated commitment ratio for other facilities as specified under OAR 333-590-0060(2). NEWCO application, p. 435.

Calculation of First Year Average Daily Censuses (ADC)

The applicant has calculated the expected ADCs among significant providers for the proposed first full year of operation. NEWCO application, p. 431.

Calculation of Peak Daily Censuses

The applicant has calculated the expected peak daily censuses for other significant facilities as specified under OAR 333-590-0060(4). NEWCO application, p. 434.

Estimation of Commitment of Beds by Facility

The applicant has calculated the commitment of general acute inpatient beds by each significant facility toward the peak occupancy as specified under OAR 333-590-0060(5). NEWCO application, p. 435.

Estimation of Available Beds by Facility

The applicant has followed the methodology of OAR 333-590-0060(6) in determining the availability of general acute inpatient beds beyond peak census needs at each facility for the proposed first year of operation.

Estimation of Excess Beds Available for the Service Area

The applicant has followed the methodology of OAR 333-590-0060(7) in determining the availability of general acute inpatient beds beyond peak census needs.

Evaluation of the Feasibility and Cost of Using Other Facilities for Need

According to the applicant, there is no reasonable alternative to their proposal. NEWCO application, p. 436. Further, the applicant argues that the separate delivery models for acute inpatient care and psychiatric care weigh against the possibility of using other facilities. Oregon health policy has a strong preference for psychiatric services provided in community-based care settings as well as for outpatient methods of meeting behavioral health needs, when feasible. Notwithstanding this preference, OHA finds that the volume and duration of ED boarding and lack of placements available for those in acute crisis supports increasing capacity for acute inpatient psychiatric services in the relevant health service area.

Evaluation of Alternative Health Facilities

Under OAR 333-590-0060(9), the applicant is required to evaluate the use of alternatives when need is not shown under OAR 333-590-0050 or under OAR 333-590-0060. For expected future needs for inpatient psychiatric services, the applicant has stated that there are no alternatives of lessor cost. Meeting psychiatric needs at alternative facilities likely would require additional inpatient psychiatric capacity. OHA notes that are currently no alternatives being proposed or in process that could serve as an alternative; such alternatives, if proposed, would have a higher priority per Oregon health policy and CN rules. OAR 333-615-0010(1).

Needs of Members of Special Organizations

The standards of OAR 333-590-0060(10) do not apply to the present application, as the proposed facility is not directed at the needs of members of special organizations.

Conclusions Under OAR 333-590-0060

For the methodology contained in OAR 333-590-0060, the applicant has compared the proposed new facility to existing capacity at facilities within the proposed service area. OHA's own analysis demonstrates a lack of alternatives under 333-615-0010(1) as viewed consistent with 333-615-0030(2), 333-615-0040(6), and 333-615-0020. OHA agrees that substantial unused general inpatient hospital bed capacity, both licensed and staffed, exists within the proposed service area and that conversion of this existing space is preferable under OAR 333-590 to the construction of a new freestanding psychiatric hospital. The issues, however, are twofold. First, is the feasibility to use such unused capacity in some configuration to meet the proposed need for future psychiatric inpatient capacity. Second, there are not currently any proposals from hospitals in the service area that plan to expand their general inpatient capacity to add psychiatric inpatient capacity.

Psychiatric inpatient need, generally

The applicant has proposed a new, 100 bed inpatient psychiatric facility to serve a psychiatric inpatient bed need for adults, adolescents, and geriatric patients. The applicant has proposed the service area of Washington and Clackamas counties for adult inpatient psychiatric care and Washington, Clackamas, and Multnomah counties for adolescent and geriatric inpatient psychiatric care. NEWCO application, p. 59. These proposed service areas are entirely within Health Service Area 1, as directed by OAR 333-615-0020 and OAR 333-615-0030. With regard to the issue of general acute inpatient bed need, the applicant found that there is no general acute inpatient bed need in the relevant service area defined under OAR-333-590, but that their project may move forward due to unusual circumstances of nonavailability as specified under OAR 333-615-0030, and the lack of reasonable alternatives relative to the unusual circumstance as specified under OAR 333-615-0040.

The psychiatric inpatient bed rules delineate between projects that exceed .40 beds per 1,000 population in the health service area and those that do not. Here, the addition of 60 beds in the health service area would result in a ratio of .20 per 1,000 population. This ratio is based on data obtained from Portland State University's Population Research Center's 2020 preliminary estimates.[4]

Pursuant to OAR 333-615-0030(4), the addition of general psychiatric inpatient beds resulting in an increase in general inpatient beds that is unjustified by OAR 333-590 is not approvable, except under unusual circumstances with respect to nonavailability of needed psychiatric inpatient services. The applicant is required to show the infeasibility of meeting service area needs by the higher priority methods indicated in OAR 333-615-0040. Those higher priority methods are first, conversion of existing general licensed capacity to psychiatric usage, and second, the development of new bed psychiatric capacity within existing hospitals. Creation of new, freestanding psychiatric hospitals is allowed if the above two preferred alternatives are not feasible. As it relates to this preference, OHA notes that there are not currently any proposals to convert existing licensed capacity to psychiatric usage, nor are there proposals to develop new psychiatric bed capacity within an existing hospital or hospitals.

In evaluating the relationship of any proposed project to the existing health care system of the service, OHA is required to address possible compromising of quality of care. OAR 333-615-0040(6). Here, OHA notes that Oregonians are facing a critical lack of suitable alternatives for "immediate, short-range control of symptoms and protection of the patient when less intensive or supportive placement will not suffice; or for immediate, short range protection of the community." OAR 333-615-0020(5). This is demonstrated in the levels of ED boarding and the volume of involuntary civil commitments awaiting placement. Individuals facing a mental health crisis are spending as long as 57 hours awaiting appropriate care.

Psychiatric care is substantially different than general inpatient care and the need of a population for inpatient psychiatric care cannot be easily addressed in a general inpatient setting, including Emergency Department (ED) boarding of psychiatric patients at existing general hospitals. While existing general inpatient beds could be converted to inpatient psychiatric beds, as is preferred in OAR 333-615-0040(1), OHA notes that there are not currently any hospitals proposing to do so. If non-availability of needed psychiatric inpatient services due to unusual circumstances can be demonstrated, then the approval of a proposal is dependent on whether the project meets all required criteria under Chapter 333, Division 615.

In Oregon, emergency department (ED) boarding is a well-recognized issue. This was true at the time of the prior NEWCO CN application and is also true for the current NEWCO CN review. Based on data obtained by the CN Program from the OHA's Health Policy and Analytics Division, 2020 data for the Portland metro area counties

[4] https://drive.google.com/file/d/1SaBFYWirIkJaIgRQRDVsvWVDwq925o7j/view

demonstrates there has been a trend of increased discharges and duration of boarding for individuals with psychiatric conditions. In contrast to prior expectations that unmet need was concentrated among impoverished populations, roughly half (53%) of ED boarding patients with stays of 24 hours or greater were Medicaid clients or uninsured. This analysis finds that the ongoing presence of ED boarding of psychiatric patients in Oregon meets the "moderate evidence"[5] standard of unusual circumstances of unavailability.

OHA also finds that the ongoing and extensive usage of ED boarding in the Portland metropolitan area meets the standard of moderate evidence, and that an unusual circumstance with regard to unavailability of beds exists. However, OHA also notes that the evaluation of alternatives to meet such an unusual circumstance requires that a substantial level of evidence is required. OAR 333-615-0040 provides a method by which alternatives to meeting unusual circumstances need to be considered. A freestanding psychiatric hospital should not be considered unless other alternatives are not feasible. OAR 333-615-0040. OHA also finds that the scope of the proposed facility should be narrowly tailored to the identified unusual circumstance.

Determination of Service Area for Psychiatric Beds

The applicant proposed different service areas based on the age of clients as directed for consideration for subspecialty beds under OAR 333-615-0020(2). These areas included Washington and Clackamas Counties for adults under age 65, and Washington, Multnomah and Clackamas Counties for adolescents and individuals over the age of 65. Both sets of proposed service areas are consistent with OAR-333-615-0030 and 0020(2) as subsets of HSA1. NEWCO application, pp. 17 and 18. For its analysis, OHA considered the tri-county area of Clackamas, Multnomah, and Washington as the service area under its evaluation of need for psychiatric inpatient beds pursuant to 333-615. The service area proposed by the applicant to meet the requirements of OAR 333-590 is not required to be identical to the service area proposed in regard to OAR 333-615, but OHA expects that any lack of overlap should be substantially explained by the applicant. For OAR-333-590 requirements, the applicant has proposed that zip codes comprising Washington County constitute their service area.

Evaluation of Alternatives

In this section of CN rules, the applicant is required to evaluate the need for beds per 1,000 population in the service area in relation to the availability of alternatives. OAR 333-615-0030(2). The applicant provided information on area inpatient psychiatric service providers (NEWCO application, p. 80). The applicant asserts that the significant volume and duration of emergency department boarding in the service area is an indication that there are no other alternatives. In its analysis, OHA notes that it is also unaware of other alternatives, such as conversion of general inpatient beds to psychiatric beds for those in an acute state of mental health crisis. OHA finds that the alternatives outlined in OAR

333-615-0000(1) are inadequate to address the level of ED boarding currently observed in the system. Some individuals will be better served by those alternatives but OHA finds that the acute crisis stabilization offered by inpatient psychiatric beds is needed in Oregon.

Determination of Bed Need

OAR 333-615-0030(3) is not applicable because the proposal is for a new facility, rather than an expansion or conversion of an existing facility.

Net Addition of Inpatient Beds to the Service Area

OAR 333-615-0030(4)(a) and OAR 333-615-0030(4)(b) state that, except under unusual circumstances of nonavailability, access, and less costly alternatives, additional psychiatric beds will not be approved if the project will increase licensed short-term acute care inpatient capacity without a demonstration of need under OAR-333-590. OHA agrees with the applicant that there is no general acute care bed need in the division 590 service area.

The continued and increasing use of emergency departments to board psychiatric patients supports a finding of unusual circumstances of non-availability. In addition, there are increased, ongoing challenges in finding placements for individuals facing involuntary civil commitments, individuals in OHA custody, and those in diversion. OAR 333-615-0030(4)(b) directs that meeting the need for identified unusual circumstances should be evaluated by the prioritization identified under OAR 333-615-0040. By this prioritization, preference is given first to conversions of existing acute inpatient capacity to psychiatric usage. Related to this alternative, OHA notes that there are not currently any proposals that intend to convert existing acute inpatient capacity to inpatient psychiatric care. The second preferred alternative is expansion at existing community hospitals. Again, OHA notes that there are not currently any proposals to expand at existing hospitals in order to add additional inpatient psychiatric capacity. The third alternative is the development of new, freestanding hospitals. In this instance OHA finds that there are no proposals to address the unusual circumstances of nonavailability with a higher priority than the current proposal.

OAR-333-615-0040(2) also directs the consideration of alternatives. In this instance, OHA finds that there are currently no alternatives with higher preference as defined in OAR 333-615-0010, nor are the alternatives outlined in OAR 333-615-0010(1) appropriate for the acute, short stay stabilization of patients proposed by the applicant.[6] These alternatives include non-hospital, 24-hour residential treatment, hospital or non-hospital day or partial hospitalization programs, outpatient treatment by a qualified mental health professional, and outpatient treatment through a mental health program approved by

[6] *See* OAR 333-615-0020(f) *"Alternatives as defined in OAR 333-615-0010(1) do not replace necessary inpatient utilization as described in subsections (c), (d), and (e) of this section, but are usually more effective and economical for meeting other needs for mental health treatment and care."*

OHA Behavioral Health. These alternatives are inadequate to address the needs identified by OHA for those in acute crisis in need of immediate, short term stabilization. OAR 333-615-0020(f).

Conclusions for Psychiatric Bed Need

Unusual circumstances are determined in relation to the feasibility of meeting service area needs by the higher priority methods indicated in OAR 333-615-0040. Because the proposal as modified will not exceed .40 beds per 1,000 in the service area OHA applied a "moderate evidence" standard. Additionally, in the evaluation of alternatives, there is a "substantial evidence" applied under OAR 333-615-0030(2)(a). OHA's analysis finds that the proposed size and scope, as modified, and subject to conditions is warranted to meet inpatient psychiatric bed need within the proposed service area.

> 2. Criterion: If the project involves remodeling or replacement of an existing health facility structure, are there significant functional inefficiencies, obsolescence, or structural problems which the facility has which seriously compromise the effective delivery of health care to patients, and which would be substantially corrected by the proposed project?

This is not applicable because the project is not proposing to remodel or replace an existing facility or structure.

> 3. Criterion: Will the proposed project result in an improvement in patients' reasonable access to services? The applicant will identify any potential problems of accessibility, including traffic patterns, restrictive admission policies, access to care for public-paid patients, and restrictive staff privileges or denial of privileges.

Traffic Patterns and Accessibility

Regarding traffic patterns and accessibility, the applicant states that their proposed site location will provide improved access to their services by allowing avoid of traffic in the Portland area. This will increase the ability to access the proposed facility of those living in the neighboring cities in and around Clackamas, Multnomah, and Washington Counties. NEWCO application, p. 27.

TriMet Bus 96 serves this location only on weekdays during rush hour. The South Metro Area Regional Transit (SMART) does not provide direct service to this location and neither does the weekday only rush hour WES Commuter train. On weekdays only, and not on weekends, the closest stop for both SMART and the WES Commuter train is Commerce Circle, approximately a ½ mile walk from the proposed location. Consequently, access to the proposed site is problematic for patients, visitors and staff who are dependent on public transportation especially for those of limited

means who cannot afford alternative modes of transportation. Limited availability of public transportation may hinder patients' reasonable access to services. The proposed location is, according to the applicant, less than ½ mile from an Interstate 5 interchange making it easily accessible for the I-5 freeway.

While there may be concern that the proposed facility is only serviced by a TriMet bus route on weekdays, it is also possible that the services being proposed by the applicant will be accessed by individuals either through transportation or transfer by ambulance, by personal vehicle, or by a non-emergency medical transportation provider.

The applicant has provided OHA with information regarding any restrictive admission policies and/or staff privileges. Regarding restrictive admission policies, the applicant states that the proposed facility will accept all patients over the age of 12 in need of inpatient and/or outpatient psychiatric care. The applicant has included with their application, a copy of the admissions policies for inpatients from their Cedar Hills Hospital facility. The applicant also states that as with Cedar Hills, the proposed facility will also treat involuntary patients. Regarding any restrictive staff privileges, the applicant states on p. 438 of their application that they do not have any restrictive staff privilege policies.

Regarding access to care for Medicaid patients, OHA requested and was provided additional information about the numbers of patients served and "deflected" at the applicant's Cedar Hills facility, including the insurance status of these patients. Specifically, OHA requested additional information regarding referral source or client location, potential payor, age of patient, reason for deflection, and disposition of referral if not admitted to the facility.

Applicant provided OHA with requested data for service from January 2018 to June 2019, broken down by payor source. For this timeframe, the facility had a total of 8,762 requests for service. Of those requests, approximately 62.5 percent were from self-pay patients, 19 percent from commercially insured patients, 16.3 percent were from Medicare/Medicaid/CCO patients, and 2.2 percent were from other government funded. The data from Cedar Hills also demonstrates that the facility admitted 36.5 percent of Medicare/Medicaid/CCO patients and 44.4 percent of commercially insured patients. Additional information was reviewed regarding the applicant's percentage of Medicaid population served. Applicants indicated they have two contracts with Oregon CCOs and that, "they would absolutely like to contract with all Oregon CCOs." Applicant provided additional data regarding their patient days from their Washington State facilities, where they are able to contract with Medicaid Programs. NEWCO, August 18, 2020 response letter, p. 5.

In additional questions posed to the applicant, OHA has inquired as to the applicant's ability to provide services to a larger percentage of public paid patients. In response, the applicant stated that despite their efforts to do so, they have not been able to

formalize a contract with one of the state's CCOs. In contrast, they have been able to enter into a contract with Trillium Healthcare, who also provided a letter of support to OHA.

4. Criterion: If the project proposes to serve the needs of members of a health maintenance organization, do these members need the proposed project, considering the special needs and health care utilization rates of this population?

This criterion is not applicable as the applicant is not proposing to serve the needs of the members of a health maintenance organization.

III. Availability of Resources and Alternative Uses of Those Resources: OAR 333-580-0050

1. Criterion: Does the proposed project represent the most effective and least costly alternative, considering all appropriate and adequate ways of meeting the identified need?

Best price

The applicant states that their parent company UHS, is a large healthcare management company with significant experience developing and operating behavioral health facilities. The applicant provided a list of their existing acute care, behavioral health, and ambulatory care facilities located throughout the United States. NEWCO, Appendix 1. Applicant provided the required CN forms and signed letter from SRG Partnerships, which details the cost of the project. NEWCO application, p. 407. These forms included the total cost, the cost per room, and a breakdown of the costs of several other spaces in the proposed facility. Based on the review of the applicant's information and OHA's Facilities Planning and Safety program review, the cost of the project appears to be consistent with the cost of other comparable health care facilities.

Best solution among reasonable alternatives

The applicant must demonstrate that proposed solutions to identified needs represent the best solution among reasonable alternatives, including internal and external alternatives.

i. Internal Alternatives

This portion of the rule requires that the applicant to:

- List the major internal operational adjustments considered which could lower the cost and improve efficiencies of offering the beds, equipment, or service.
- Demonstrate that the alternatives considered represents the best solution for patients and discuss why other alternatives were rejected.

- If the proposal is for an inpatient service, demonstrate that this method of delivery is less costly than done on an outpatient basis; and

- Demonstrate that the selected architectural solution represents the most cost effective and efficient alternative to solving the identified need.

The applicant states that they have considered several alternatives, both internal and external. Consideration of both is required. Internal alternatives included an expansion of existing facilities and/or care redesign to redirect care to other, non-inpatient modalities. NEWCO application, p. 28.

In the case of expansion of existing facilities, the applicant states and OHA confirms, that they have expanded the bed count of their existing facility, Cedar Hills Hospital from 37 beds to 98 beds. NEWCO application, p. 29.[7]

The applicant states that further expansion at this facility is not possible as they have "achieved full occupancy of the building envelope" and additional space would require a new building to be constructed. NEWCO application, p. 29. Further, the applicant states that the cost of expansion at the Cedar Hills site would be roughly the same as the cost to construct the proposed facility, but there is not available property at the Cedar Hills location. NEWCO application, p. 29. Finally, the applicant states that the proposed location will have access benefits due to its location along the Interstate 5 corridor. NEWCO application, p. 29.

The second internal alternative that was considered by the applicant was care redesign and/or increased outpatient services. Applicant posits that, "theoretically, if all needed psychiatric care could be delivered on an outpatient basis, they would expect to see providers moving in that direction." Additionally, the applicant states that there is some psychiatric care that must be delivered in an inpatient environment and there are some patients who are sufficiently ill to warrant inpatient care under Notification of Mental Illness (NMI) rules. NEWCO application, p. 30. Finally, the applicant states that care redesign and shifting care to outpatient settings is an important step, but they acknowledge that those resources must be balanced with "robust inpatient resources." NEWCO application, p. 30. OHA notes that state policy defined in Oregon Revised Statutes gives preference to previously mentioned alternatives, with the development of a new, freestanding inpatient psychiatric hospital. OHA has narrowly tailored its approval to address the documented need for acute, hospital level care to improve access to appropriate and timely crisis stabilization.

[7] ASPEN Central Office Database. Accessed June 10, 2021.

ii. External Alternatives

If the proposed beds, equipment, or services are currently being offered in the service area, this portion of the rule requires that the applicant demonstrate:

- Why the approval of the application will not constitute unnecessary duplication of the services.
- Why the proposal is an efficient solution to identified needs.
- Why the proposal represents the most effective method of providing the proposal.
- The applicant can provide this proposal at the same or lower cost than is currently available.

If these factors cannot be demonstrated, the applicant must show that without the proposal, the health of the service area population would be seriously compromised.

Applicant refers to the psychiatric bed need model and a description of unusual circumstances that the applicant summarized and presented. NEWCO application, p. 27. The applicant notes that their Cedar Hills Hospital location operates near or at maximum capacity, which leads to the facility "deflecting" an average of 337 patients per month. NEWCO application, p. 31. Due to this factor, the applicant states that their proposal will not lead to unnecessary duplication, rather, it will add inpatient psychiatric beds to a health care setting that the applicant states is in a "severe shortage." NEWCO application, p. 31. OHA rules specify that the experiences at Cedar Hills Hospital should not be used as representative of population-based need. Related to this shortage, in his December 2, 2020 memo to the Certificate of Need program, Steve Allen, Behavioral Health Director at OHA stated "a wide range of stakeholders within the greater Portland region and its hospitals consistently report significant pressures on existing regional capacity, including acute inpatient beds along with community supports and services."

To further highlight the lack of regional capacity the applicant refers to the 2016 Emergency Department (ED) Boarding Report, completed in a partnership between OHA and Oregon State University's College of Public Health Human Services. This report contained three broad-based findings.[8] First, Oregon's incidence of emergency department boarding (ED boarding) are similar to other states across the nation. Second, individuals with severe psychiatric disorders that visited an ED were boarded at a higher rate than individuals that visited for non-severe psychiatric disorders. Finally, the report found that additional research is needed in order to identify the treatment and service patterns for individuals who experience ED boarding. As noted previously in this draft

[8] https://www.oahhs.org/assets/documents/files/publications/0%20OHA%20Psychiatric%20ED%20Boarding%20Report%20Brief%20Final.pdf

recommendation, ED boarding continues to be an issue throughout Oregon, but specifically in the Portland metro area.

iii. Less Costly Alternatives of Adequate Quality

The applicant states that "alternative services" along the psychiatric care continuum, such as emergency services, residential treatment facilities, outpatient services, or medication assistance programs provide complimentary services. Additionally, the applicant states that the alternatives do not currently exist in adequate numbers and that situation has contributed to the "mental health crisis and growth of ED boarding." NEWCO application, p. 34.

In his memo to the Certificate of Need program, OHA Behavioral Health Director, Steve Allen, refers to this shortage. In addition to the previously discussed pressures placed on regional capacity, "factors contributing to the length of stay are complicated (and increasing) in both EDs and general acute inpatient beds in the region because timely step down into community care is not possible due to a lack of appropriate community care resources." This results in an inability to discharge patients and therefore, admit new patients in need of acute stabilization.

There is currently a statewide shortage of both inpatient beds and outpatient services. This shortage and lack of resources has contributed to the issue of ED boarding. These data were cited in the bed need analysis section of this recommendation. The addition of acute inpatient psychiatric beds has the potential to reduce the number of individuals waiting in EDs and increase the likelihood that they will receive appropriate stabilization or treatment.

iv. If there are competing applications for the proposal, each applicant must demonstrate why their application is the best solution, and why a certificate of need should be granted to them.

Not applicable because there are no competing applications.

2. Criterion: Will sufficient qualified personnel, adequate land, and adequate financing be available to develop and support the proposed project?

This section of the rule requires the applicant to demonstrate that there are or will be:

- Sufficient physicians and sufficient nurses in the area to support the proposal.
- Sufficient technicians available to support the proposal.

- Adequate land available to develop the proposal and accommodate for further expansion.

- Source(s) and availability of funds for the project.

On page 35 of the application, the applicant states that they intend to leverage the relationships they have established with their Cedar Hills Hospital facility in order to assist with the staffing at their proposed location. Additionally, the applicant states that because the two facilities would be located 13 miles from each other, there will be opportunities to jointly recruit, train, and educate their staff.

In terms of medical staff, the applicant states that they will use the same methodology as will be employed to recruit other staff members. Physicians will either be contracted or direct employees of the proposed hospital, depending on staff preference.

According to a 2019 report on the recruitment and retention of behavioral health staff, there is a national trend of significant shortages of psychiatrists, psychologists, social workers, school counselors, and marriage and family therapists.[9] The report found that "comprehensive workforce retention and recruitment strategies are necessary to increase access to high-quality behavioral health providers across the state and address challenges of insufficiency." Scheyer, *et al*, p. 6.

The staffing shortage was also recently acknowledged by UHS Chief Financial Officer, Steve Filton, in an interview from Behavioral Health Business. Mr. Filton stated that the "shortage of clinical and, in some cases, non-clinical personnel are probably the single biggest obstacle and headwind to getting back to pre-pandemic volumes [on the behavioral health side]. [10]

In a letter to OHA from the Washington County's Department of Health and Human Services Behavioral Health Program, Division Manager Nicholas Ocon pointed out that "adding the hospital will create additional strain on the workforce of behavioral health providers.

OHA seeks to limit the impact of short-term COVID related labor shortages on the quality of care across the state and has reduced the number of beds approved in the draft recommendation to reflect the near-term labor forecast to ameliorate these impacts. Moreover, these individuals need to be served as some point in the system and OHA

[9] Scheyer K, Gilchrist E, Muther J, Hemeida S, Wong SL. Recruitment and Retention Recommendations for Oregon's Behavioral Health Workforce. Farley Health Policy Center, April 2019.
[10] https://bhbusiness.com/2021/04/27/uhs-cfo-staffing-shortages-the-single-biggest-obstacle-to-restoring-behavioral-volumes/

finds that shifting the staffing where the individual will get appropriate mental health care aligns with OHA goals.

In relation to adequate land being available to develop the proposal and accommodate future expansion, OARs require the capability for further expansion of either the building or parking for the proposed hospital. Theoretically, UHS could expand either the building size, the parking capacity, or both. However, both would be economically and operationally costly. For example, the parking garage could be constructed in the western area of the campus and building expansion could occur in areas currently designated on the plans as parking.

The applicant states that the only available means to expand the facility is to shift parking to a new vertical structure and expand where parking was removed. Physically, there is the ability to expand as needed.

3. Criterion: Will the proposed project have an appropriate relationship to its service area, including limiting any unnecessary duplication of services and negative impacts on other providers?

The applicant must identify the extent to which the proposal and its alternatives are currently being offered to the identified service area population, or, in the case of general inpatient beds, could be offered in the basis of an analysis under division 590.

As required by rule, the applicant has provided information regarding the provision of similar services to the service area population. NEWCO application, p. 37. Citing data from 2014 and 2017 National Mental Health Services Survey, the applicant notes decreases of 24-hour hospital inpatient services, 24-hour residential services, partial hospitalization and/or day treatment services, and outpatient services. NEWCO application, p. 37. These data are consistent with the access issues noted in Steve Allen's memo.

The applicant also notes that other than its existing Cedar Hills facility and the Unity Center, there no other dedicated psychiatric facilities most similar to their proposal in the service area. NEWCO application, p. 38. The applicant also notes that its Cedar Hills facility is consistently above capacity, and as noted previously, the Unity Center is frequently above its capacity.

The applicant will discuss to the best of his or her knowledge, any negative impact the proposal will have on those presently offering or reimbursing for similar or alternative services. Areas to be discussed are utilization, quality of care, and cost of care.

The applicant states that their proposed facility will not be an unnecessary duplication, rather, it will provide needed resources based on their assertion of unusual circumstances. OHA agrees with this assessment of a lack of resources as evidenced by the increases in emergency department (ED) boarding of psychiatric patients.

To the point of utilization and cost of care, the applicant has provided a table (Table 10, p. 39) of payors and the percent of patient days of each payor. The table shows that 37.6 percent of patient days come from Tricare/VA, 33.8 percent from Medicare and Managed Medicare, 19 percent from commercial insurance or HMO, and 8.7 percent from Medicaid and Managed Medicaid.

OHA noted that the percent of Medicaid and Managed Medicaid were low, given the level of demand. In their response to OHA's letter dated January 28, 2020, the applicant provided breakdowns of inpatient psychiatric admits and deflections of persons aged 18 and older from January 2018 to June 2019. These were provided both by service provider and by payor source. These data revealed that Cedar Hills admitted a total of 3,967 patients between the dates indicated above. Of these admissions, 40 percent were Medicare, 16.5 percent were Medicaid/CCO, 37 percent were commercially insured, and four percent were other government or special payor. Another question posed by OHA in the January 2020 follow up letter addressed the ability of the proposed facility to provide care to all patients, regardless of payor source. The applicant stated that while they have been successful at obtaining a contract with Trillium and Yamhill Valley Coordinated Care Organization, they have not been successful at contracting with Health Share. NEWCO response letter, p. 16.

The applicant must demonstrate that jointly operated or shared services between the applicant and other providers have been considered and the extent to which they are feasible or not.

The applicant states that collaboration and sharing resources will occur between the proposed facility and the other Cedar Hills facility operated by UHS. NEWCO application, p. 39. The applicant also provided a list of organizations within the proposed service area with whom they collaborate. NEWCO application, p. 36. These include participation in Women Veterans Mental Health advocacy, Lines for Life partnership, partnership with Western Psychological and Counseling, where UHS shares a joint location at the Cedar Hills Outpatient Service site, Central City Concern, Northwest Catholic Counseling Center, and several others. Additionally, the applicant stated that they met with several of the Coordinated Care Organizations in the state, including Care Oregon/Healthcare/Columbia Pacific CCO, where the applicant asked for a contract as they continue to provide care to their members. The applicant also stated they met with existing contract provider, Yamhill County and Yamhill Valley CCO where they informed CCO leadership of the plans to expand their services. Finally, the applicant states they met with Trillium CCO, who have also provided OHA with a letter of support for the proposal.

OHA requested additional information regarding the applicant's statements regarding meeting with other health care organization in the service area. NEWCO application, p. 39. UHS executives met with the healthcare organizations Providence Health and Services Oregon, Kaiser Permanente, and Health Share.

In January 2020, OHA asked additional questions about the organizations the applicant met with, including whether or not there were tentative agreements with those organizations. In their April 15, 2020 response, the applicant states that they met with Unity Center for Behavioral health to discuss their current relationship and patient transfers. The applicant stated that their Assessment Center is in daily communication with the Unity Center discharge planners and Psychiatric Emergency Service team reviewing and accepting requested transfers from the Unity Center to Cedar Hills Hospital.

The applicant must demonstrate that all necessary support services and ancillary services for the proposal are available at acceptable levels to ensure that patients will have the necessary continuity in their health care.

The applicant states that they have established relationships with other health care providers in the service area, including hospitals, non-acute care providers, ambulance services, and other ancillary services. NEWCO applicant, p. 39.

> 4. Criterion: Does the proposed project conform to relevant state physical plant standards, and will it represent any improvement in regard to conformity to such standard, compared to similar services in the area?

This project will be reviewed under current 2018 Facilities Guidelines Institute's (FGI) Hospital Guidelines. In their application, UHS uses the nomenclature of "adolescent" and "older adult". FGI uses the nomenclature of "Child Psychiatric" and "Alzheimer's and Other Dementia Patient Care Unit" and does not offer other categories that are more applicable. Children and dementia patients will not be admitted to this facility. However, in terms of applying the applicable rules relevant to the review, "adolescent" will be review under the child rules and "older adult" will be reviewed under the dementia rules. The applicant states that they have also met with local planning and regulatory agencies and elected officials, including the former Wilsonville mayor, the City Council, and the Wilsonville Planning Commission.

OHA received a letter of support from former Wilsonville Mayor Tim Knapp. In his letter, Mr. Knapp notes the "dire need of more capacity to improve mental-health services to our citizens." Letter dated July 29, 2019.

For the architectural analysis, an initial generalized review for deficiencies or areas of concern are summarized below:

- Oregon has amended 2.5-2.3.2.1 (Child Psychiatric Care Unit – Patient Bedroom Capacity) to require a waiver submittal to OHA to demonstrate the need for double occupancy. The adolescent unit may only serve single occupancy (8 beds total) unless a waiver is submitted and approved during the plan review process with Facilities Planning & Safety.

- Sterile Processing facilities are required per 2.5-5.1 and 2.1-5.1.1. Linen Services are required per 2.5-5.2 and 2.1-5.2.1.1 and these cannot be in same space as Patient Laundry.

- Receiving areas must be segregated from waste staging per 2.1-5.3.2.2 (1)(b).

In order to be licensed in Oregon, UHS will be required to comply with all physical environment standards and OHA bases its assessment at the CN approval level accordingly and finds that this criterion is met pending licensure. OAR 333-615-0050.

IV. Economic Evaluation: OAR 333-580-0060

In this portion of the analysis, the specific rule requirement will be set out and the analysis will follow.

1. Criterion: Is the financial status of the applicant adequate to support the proposed project and will it continue to be adequate following the implementation of the project?[11]

Any financial forecasts which deviate significantly from the financial statements of the five-year historical period presented in the application must be fully explained and justified. OAR 333-580-0060(1)(a).

Not applicable because there were no significant deviations

An applicant must describe how it will cover expenses incurred by the proposal in the event the proposal fails to meet budgeted revenues in any forecasted year. OAR 333-580-0060(1)(b).

The applicant has provided a letter from their Chief Financial Officer committing funds to the project. Per UHS 10Q report, as of March 31, 2021, the Company had $765 million in cash and $1.7 billion in net accounts receivable.

Applicants must discuss the results of ratio analysis required by Form CN-9 and OAR 333-580-0100(4), explaining strengths and weaknesses. The discussion should refer to each ratio as detailed in Table 1 of OAR 333-580-0100(4). Specifically, applicants must describe their debt capability in terms of the required ratio analysis. OAR 333-580-0060(1)(c)(A).

The debt listed for the UHS consolidated company is typical for the industry. In a review of the company's most recent financial statements from March 31, 2021, the ratios have improved over what was provided in 2018. The company has $4 billion of

[11] OAR 333-580-0060(1).

debt overall, thus, the impact on debt capacity from this project is fairly negligible in the company's totality.

The company intends to fund the project from cash reserves. Given their cash position of $764 million, the cost of this project is estimated at $47 million, the Company does have the ability to finance this project from cash reserves.

The discussion of liquidity should include comments on the adequacy of cash, the collection period for patient accounts receivable, and the payment period for accounts payable. OAR 333-580- 0060(1)(c)(B).

The Company did not provide individual balance sheets as it will be part of the consolidated company. As a result, the ratio analysis was performed at the UHS level for the income statement and the company level for the balance sheet. OHA finds this reasonable, as ultimately, the parent company will support any deficiencies in reserves NEWCO may have in its first years. Similar to Cedar Hills, operating margins and ratios are discussed with continued improvement from Year 1. The applicant indicates that the Cedar Hill experience was utilized to forecast for NEWCO. The ratios for liquidity at the consolidated level are consistent with what would be expected in the industry. Fitch[12], one of the largest credit rating companies in the United States, issued a stable outlook for UHS in May 2020 and commented that UHS has one of the lowest debt leverage ratios in the industry, meaning that it has sufficient capacity for additional borrowings. It also indicated that cash flow had doubled from its position a year earlier. Based on the 10-K financial statements provided in the application for the year ending December 31, 2018, the average collection period for its accounts receivable was 51 days, which is very consistent with the average collection period of the previous years for UHS. Cash and Cash equivalents were at $105 million at December 31, 2018, while the company had no borrowings on its line of credit. Total capacity available to borrow on the line of credit at December 31, 2018 was $960 million.

The profitability ratios required by OAR 333-580-0100(4) and Form CN-9 must be discussed. OAR 333-580-0060(1)(c)(C).

The Company provided its analysis of profitability ratios. The balance sheets related to ratios were omitted or discussed at the parent level as there will not be a separate balance sheet for NEWCO. Operating margins are negative in the first year of operations, at -540.7 percent. However, the margin grows to a positive 2.2 percent in the first full year. NEWCO, September 16, 2019 response letter, p. 26.

After the first year of operations, the deductibles ratio stabilizes at 55% or 54% (contractual and other deductions as a percentage of revenue). The projections show a

[12] https://www.fitchratings.com/

positive bottom line in the third year of operations. The parent has sufficient reserves to assist should there be losses in the first few years.

Board designated assets: The intended uses of this fund are to be discussed in general terms. Alternative uses or contingent availability of these funds, such as to meet a cash requirement, also need to be addressed. Additionally, the proportion (percent) of depreciation that was or is to be funded is to be identified for each financial period presented. OAR 333- 580-0060(1)(d).

UHS will use existing cash reserves to fund the project. No additional discussion was provided. As reserves will fund the project, no debt ratios or other relational ratios would impact financing as it relates to cash requirements.

The applicant must discuss the availability of other sources of funding, including, but not limited to, donor restricted assets, assets of parent or subsidiary corporations, or a related foundation, which may be acquiring assets and/or producing income that is for the purpose of, or could be used for the purpose of, capital expenditure by the applicant. OAR 333-580- 0060(1)(e).

The Company does not have donor restricted assets indicated in the application. Funding would come from existing cash reserves of the parent company, UHS. No additional discussion provided in applicants response.

Other sources of funding available to UHS include revolving line of credit. The December 31, 2018 financial statements indicate the Company has approximately $960 million of unused line of credit that could be drawn upon if needed.

Money market conditions must be discussed in terms of their impact on project financing, including interim financing, if applicable. Include the month and year in which financing is to be secured in this narrative. The estimated rate of interest must be justified by the applicant. If debt financing is secured before or during the review process, the actual rate of interest obtained should be reported within 30 days of securing financing. OAR 333-580-0060(1)(f)(A).

Not applicable. The Company does not intend to finance the project and as a result, no interest rates were considered.

When a bond rating report is issued before or during the review period in conjunction with a proposed bond issue to fund a certificate of need proposal, the applicant must submit a copy of the report to the Division within 30 days of its issuance. OAR 333-580-0060(1)(f)(B).

Not applicable. The Company does not intend to issue bonds related to the project.

The financing term selected must be supported with evidence showing the benefits of its selection. OAR 333-580-0060(1)(f)(C).

Not applicable. The proposed project will be funded by the parent company, UHS, using cash reserves, evidence supporting the financing term is not applicable.

Patient days, admissions and other units of service used in forecasting projected expenses and revenues, both for the facility as a whole and for services affected by the proposed project, must be consistent with projections used to determine area need. All assumptions must be discussed. OAR 333-580-0060(1)(g).

The applicant has based their admission and patient day data on Cedar Hills Hospital, which the applicant operates. The total projected admissions for the first full year of operation was 976 (representing 4 months of operation). The length of stay is consistent at 10.6 days and is consistent with the Cedar Hills facility for the fiscal year 2019. NEWCO application, p. 413.

A 2020 published study by the National Biotechnology Information on "Shifting Trends in Admission Patterns of an Acute Inpatient Psychiatric Unit in the State of New York" found a trend in reduced average length of stay over time, which is consistent with decreases in acute hospitals.[13] However, the applicant indicated that the demand for their project is sufficient enough that even a change in patient days would not affect total patient days, however as they indicated in their response letter dated September 16, 2019, they have not seen a marked decrease in length of stay at Cedar Hills. As a result, they chose to utilize the same average length of stay in its calculation.

The State of Washington performed a study of inpatient days at inpatient psychiatric facilities in Washington (2015) and found the average length of stay to be 14.2 days with a range of 8.6 days to 22 days.[14]

An applicant must identify and explain all inflation assumptions and rates used in projecting future expenses and in completing the forms described in OAR 333-580-0100. It is important that the assumptions used by the applicant in preparing financial forecasts be carefully considered. All relevant factors pertaining to historical experience of the applicant, together with upcoming changes affecting the future, should be considered in forecasting the financial condition of the entity. Specifically, projected changes in wages and salaries should be based on historical increases or known contractual obligations and planned future personnel increases. Considerations should include expected full-time

[13] Shifting Trends in Admission Patterns of an Acute Inpatient Psychiatric Unit in the State of New York

[14] https://ofm.wa.gov/sites/default/files/public/publications/PCGInpatientPsychiatricCareRiskModelReport.pdf

equivalent staffing levels, including increases resulting from the proposal. OAR 333-580-0060(1)(h)(A).

The initial salary was based on experience from the applicant in operating other residential and outpatient service programs. In the initial year, the applicant used year-to-date actuals for their Cedar Hills facility by FTE class. No wage or salary inflation was included in the applicant's projection, however, if OHA were to assume an anticipated three to four percent increase in salaries it would not significantly impact the profitability of the Company. These guideposts align with OHA's 3.4 percent projected annual increase in health care costs (which are inclusive of labor costs).

Projected deductions from revenues should be explained and justified. OAR 333-580-0060(1)(h)(B).

The proposed project utilized information from its Cedar Hills facility, which is similar to arrive at the deductions from revenue. Bad debt is assumed at .8 percent of gross revenue per year. Charity care is assumed at two percent, and other deductions are assumed at .3 percent of gross revenue per year.

Expected changes in the intensity and/or complexity of services provided must be considered in addition to the rate of inflation in arriving at an overall rate of increase in revenues or expenses. OAR 333-580-0060(1)(h)(C).

The applicant does not believe any changes in the revenue per patient day would change at the new location compared to the Cedar Hills location even with a change in the mix of patients. No anticipated changes in intensity and/or complexity of services is expected

With over 50 percent of payor mix in the Portland Metro area comprising Medicaid for the 18 to 64-year-old population, it is unclear what the impact of this payor will have on this new facility. The applicant noted the proposed project will be reimbursed by Oregon Medicaid; however, they have not been able to contract for services with the largest Medicaid Coordinated Care Organization (CCO). Applicant currently is or is in the process of contracting with Trillium Healthcare, another CCO in Oregon. OHA received a letter of support from Trillium Community Health Plan Chief Executive Officer, Chris Plummer. The payor mix projected estimated Medicaid to be 12.8 percent of total business.

The applicant projects the reimbursement rates on the global basis, which is estimated at $2,146 per Patient Day (gross), but no anticipated payor mix was provided. It would be reasonable to anticipate that this optimal revenue calculation would be based on a perceived payor mix, which was outlined in the application, although, reimbursement by payor was not identified.

Projected gross revenue must reflect:

- Patient day increases/decreases
- Outpatient activity increase/decrease
- All debt service coverage requirements; and
- Other significant impacts the proposal will make on revenue projections.
- Each applicant must submit within 30 days, a copy of the financial feasibility report if the applicant arranges for such a report and it becomes available before or during the review period. OAR 333-580-0060(1)(h)(D).

The applicant assumed no changes in gross revenue per day or expenses. No adjustment for inflation is consistent with the applicant's salary assumptions. The concern here would be that expenses increase at a faster rate than revenues. Even if this were to happen, based on the cash reserves available at the parent level, the subsidiary applicant would have sufficient cash flow to support operations. Any additional shortfalls in the first two years would be funded by the parent company as indicated in Appendix 8 of the application, *Universal Health Services' Letter of Financial Commitment*.

Note that the consolidated financial statements for UHS indicated average company occupancy rates of their inpatient behavioral health facilities to be approximately 75 percent. Financial information provided to OHA projected occupancy rates of 85 percent or higher for fiscal years 2024 and 2025. Based on UHS's financial statements, the company is still profitable and able to satisfy expenses should the occupancy rate at the proposed facility be closer to the 75 percent observed at their other facilities.

The applicant stated that outmigration from the service area was 1.2 percent or less annually, varying by age group. NEWCO application, p. 92. This could indicate that there is sufficient supply in the service area for these services or that patients are being served through lower acuity services. The applicant also states that migration from outside the service area was 16 percent. NEWCO application, p. 92. This could be an indication that there is a demand for their services outside the three-county service area.

The applicant includes their analysis of Cedar Hills and its patient mix. It is noted that 27 percent of their patient volume is from outside the state (primarily from Joint Base Lewis McCord in Washington state), while 26 percent of their volume comes from outside their service area, for a total of approximately 53 percent outside the service area. NEWCO application, Table 37, p. 94. It is likely that the number of out-of-state patients would be less, as the proposed facility is further south of the Cedar Hills location. The

applicant believes the demand is there in the community, even though it does support a quarter of its patients from outside the state. The applicant indicates that the number of patients turned away at Cedar Hills is due to a lack of beds. The number of declined patients has increased substantially and more than doubled in 2019.

2. Criterion: Will the impact of the proposal on the cost of health care be acceptable?[15]

The applicant must discuss the impact of the proposal both on overall patient charges at the institution and on charges for services affected by the project. An applicant must show what the proposal's impact will be on the gross revenues and expenses per inpatient day and per adjusted patient day. OAR 333-580-0060(2)(a)(A).

The applicant projects that their gross revenue per patient day will remain consistent throughout the projection at $2,145 per patient day. NEWCO application, p. 413.[16] The financial model is based on the Cedar Hills facility's financial information.

The Payor mix is estimated on p. 49 of the application. The payor mix represents the estimated source of revenue by major insurance payors (or patient self-pay, for those patients without insurance). An analysis of the payor mix estimated for the proposed facility as compared to that of UHS' Cedar Hills location (p. 39) are 1) Medicare, which is estimated at 32 percent; Cedar Hills is 33 percent when combined with managed Medicare care and, which is fairly consistent 2) Medicaid is estimated to be 12.8 percent in the application. Cedar Hills has a payor mix for Medicaid of less than 9%. The applicant has not been able to secure a potential payer contract with the largest CCO in their proposed service area, so it is not clear if they will be able to achieve 12.8 percent as they propose.

The applicant responded (NEWCO, September 16, 2019 response letter) that their three Washington state facilities achieved an average 52% Medicaid for their payer mix, and they believe they can reach 12.8% for the new facility.

When a health service is affected by the proposal, an applicant must demonstrate what impact the proposal will have on related patient charges and operating expenses. Expenses and patient charges for individual health services will be compared to historical and forecasted rates of increase for the facility as a whole.

See response above. In addition, the argument is made that the goal is to serve all of Oregon, which has the need. The applicant cites a number of factors that result in the underreporting of bed need of inpatient psychiatric beds included in emergency department boarding, among other reasons. The applicant believes their

[15] OAR 333-580-0060(2).

proposed facility will serve that need, will decrease the costs in the ED as a result and will not impact patient charges or expenses in the future.

The applicant must discuss both the proposed or actual charges for the proposed service and the profitability of the proposed service, compared to other similar services in the state (if any). OAR 333-580-0060(2)(b).

Based on the application, the proposed charges, deductions, and expenses are based on actual charges from the Cedar Hills location.

The applicant must discuss the projected expenses for the proposed service and demonstrate the reasonableness of these expense forecasts. OAR 333-580-0060(2)(c).

As discussed above, expenses projected were based on actual Cedar Hills expenses. See Attachment A for additional information regarding expenses.

If the proposed service is currently not being provided in the area, the applicant should identify potential travel cost savings by establishing what the existing travel costs are to patients. OAR 333-580-0060(2)(d)(A).

Cedar Hills is within 13 miles of the proposed project. There are other facilities that provide similar services proposed by the applicant. As Portland has the most beds of any area in the state of Oregon, there is no evidence of significant outmigration of patients to other service areas. Outmigration was estimated at no more than 1.2 percent; therefore, travel cost savings are not seen as significant as in migration from outside the service area would be seen much more than a reduction of individuals leaving the area for services.

Establishing what the travel costs will be to patients after implementation of the proposal. OAR 333-580-0060(2)(d)(B).

See above for discussion of travel costs.

Showing what the difference is between the figures in OAR 333-580-0060(2)(d)(A) and (B). OAR 333-580-0060(2)(d)(C).

See above for discussion of travel costs. NEWCO application, p. 54.

The applicant must discuss the architectural costs of the proposal. An applicant must demonstrate that the existing structure will last long enough to derive full benefits from any new construction or remodeling. OAR 333-580-0060(2)(e)(A).

Not applicable. The applicant is proposing to build a new facility. As such, there is not an existing structure or remodeling to evaluate.

General construction costs must be within reasonable limits (within high/low range as described in the most current issue of the Dodge Research Report adjusted for location). OAR 333-580-0060(2)(e)(B).

Applicant indicated that the Dodge Research Report is no longer applicable.

CONCLUSION

For all of the reasons cited above, OHA finds that NEWCO has met its burden of demonstrating that the CN criteria are met and recommends that a certificate of need be granted with the conditions stated on page two of this draft recommendation.

Dated this 26th day of August 2021.

By: _____

Dana Selover, MD, MPH
Section Manager
Health Care Regulation and Quality Improvement
Oregon Health Authority

NOTICE: Pursuant to ORS 442.315(5)(a), an applicant or any affected person who is dissatisfied with this draft recommendation is entitled to an informal hearing before OHA. A request for an informal hearing must be received within ten (10) days after service of the proposed recommendation. The informal hearing will be conducted pursuant to OAR 333-570-0070(7).

A request for an informal hearing may be sent to:

Dana Selover, MD, MPH
Section Manager
Health Care Regulation and Quality Improvement
800 NE Oregon Street, Suite 465
Portland, OR 97232

If OHA does not receive a request for an informal hearing within ten (10) days after service of this draft recommendation, OHA shall issue a proposed decision.

Financial Analysis

Unaudited Stand-Alone NEWCO

	PROJECTED- STAND ALONE (UNAUDITED)						Percentage of Patient Revenue				
	Sept. 1, 2021 - Dec 31, 2021	2022	2023	2024	2025		Sept. 1, 2021 - Dec 31, 2021	2022	2023	2024	2024
Total Patient Revenue	2,620,428	26,007,729	58,512,890	67,302,424	74,228,963	[a]					
Contractual Adjustments	1,266,633	12,592,257	28,332,580	32,582,467	35,927,405		48.3%	48.4%	48.4%	48.4%	48.4%
Charity Care	44,502	442,280	995,130	1,144,400	1,262,289		1.7%	1.7%	1.7%	1.7%	1.7%
Other	887,174	1,302,414	2,407,566	2,768,701	3,053,914		33.9%	5.0%	4.1%	4.1%	4.1%
Total Deductions	2,198,309	14,336,951	31,735,276	36,495,568	40,243,608	[b]	83.9%	55.1%	54.2%	54.2%	54.2%
	84%	**55%**	**54%**	**54%**	**54%**						
TOTAL OPERATING REVENUE	**422,119**	**11,670,778**	**26,777,614**	**30,806,856**	**33,985,355**						
Salaries	1,645,357	6,589,121	10,914,739	12,627,873	13,770,605	[c]	62.79%	25.34%	18.65%	18.76%	20.46%
Benefits	304,281	1,222,269	2,019,159	2,336,079	2,547,477	[c]	11.61%	4.70%	3.45%	3.47%	3.79%
Supplies	43,585	433,166	974,624	1,120,818	1,236,277	[d]	1.66%	1.67%	1.67%	1.67%	1.84%
Professional Fees	241,194	1,453,488	2,760,415	3,113,263	3,391,953	[d]	9.20%	5.59%	4.72%	4.63%	5.04%
Rental and Lease	32,000	96,000	96,000	96,000	96,000	[d]	1.22%	0.37%	0.16%	0.14%	0.14%
Purchased Services	133,178	550,352	820,392	894,129	951,950	[d]	5.08%	2.12%	1.40%	1.33%	1.41%
Travel/Education	38,000	114,000	186,112	216,746	235,360		1.45%	0.44%	0.32%	0.32%	0.35%
Maintenance	4,220	116,675	267,776	308,069	339,854		0.16%	0.45%	0.46%	0.46%	0.50%
Non-Allocated	52,565	157,694	165,579	173,858	182,551		2.01%	0.61%	0.28%	0.26%	0.27%
Insurance	7,168	71,146	160,506	184,112	202,505		0.27%	0.27%	0.27%	0.27%	0.30%
Depreciation & Amortization	819,345	2,458,034	2,458,034	2,458,034	2,458,034	[e]	31.27%	9.45%	4.20%	3.65%	3.65%
Allocated Costs	12,664	350,123	803,328	924,206	1,019,561		0.48%	1.35%	1.37%	1.37%	1.51%
Other Expenses	202,769	608,306	638,722	670,658	704,191	[d]	7.74%	2.34%	1.09%	1.00%	1.05%
Total Operating Expenses	**3,536,326**	**14,220,374**	**22,265,386**	**25,123,845**	**27,136,318**		134.95%	54.68%	38.05%	37.33%	40.32%
Excess Revenue over Expenses, Pre tax	**(3,114,207)**	**(2,549,596)**	**4,512,228**	**5,683,011**	**6,849,037**						
Operating Margin	-737.76%	-21.85%	16.85%	18.45%	20.15%						

[c] Salaries and benefits analysis **(Page 49 of Application)**

	Sept. 1, 2021 - D	2022	2023	2024	2025
Projected FTE	71.8	94.2	153.8	179.1	194.5
Salaries per FTE	68,748	69,948	70,967	70,507	70,800
Annual Increase		1.75%	1.46%	-0.65%	0.42%
Benefits as % of Wages	18%	19%	18%	18%	18%

Very consistent year to year - Benefits are estimated at 18%, usually expect around 20%, so difference is minimal.

[d] Application states that the company will use cash to fund the project.

[e] Depreciation

Construction Price	47,000,000	Pg. 48
Estimated Useful Life-years	20	Pg. 48
Expected Annual Depreciation	2,350,000	
Actual	2,458,034	

(Would anticipate approx. $1 million of capital equipment, furnitures and fixtures as reason for higher depreciation, reasonable)

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5. Nam E, Lee E, Kim H. 10-Year Trends of Emergency Department Visits, Wait Time, and Length of Stay among Adults with Mental Health and Substance use Disorders in the United States. Psychiatric Quarterly. 2021 Feb 19:1-6.

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9. Oregon Health Authority (2021) *Oregon Hospital Discharge Data, Fourth Quarter 2020 update*. Accessed 5/20/2021. Portland, OR: Oregon Health Authority