

**STATE OF NEW YORK**  
**PUBLIC HEALTH AND HEALTH PLANNING COUNCIL**

**COMMITTEE DAY**

**AGENDA**

*May 19, 2016*  
*10:00 a.m.*

*90 Church Street 4<sup>th</sup> Floor, Room 4A & 4B, New York City*

**I. COMMITTEE ON ESTABLISHMENT AND PROJECT REVIEW**

Peter Robinson, Chair

**A. Applications for Construction of Health Care Facilities/Agencies**

**Acute Care Services – Construction**

**Exhibit # 1**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>
1.	152343 C	Long Island Jewish Medical Center (Queens County)
2.	161080 C	Phelps Memorial Hospital Assn (Westchester County)
3.	161121 C	New York Methodist Hospital (Kings County)

**Residential Health Care Facilities - Construction**

**Exhibit # 2**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>
1.	152138 C	St Marys Hospital for Children Inc (Queens County)

**B. Applications for Establishment and Construction of Health Care Facilities/Agencies**

**Acute Care Services – Establish/Construct**

**Exhibit # 3**

	<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>
1.	161077 E	Woman’s Christian Association (Chautauqua County)

**Ambulatory Surgery Centers - Establish/Construct**

**Exhibit # 4**

<u>Number</u>	<u>Applicant/Facility</u>
1. 161083 E	Gastroenterology Care, Inc. (Kings County)
2. 161138 B	JTL Consulting, LLC t/b/k/a Gastroenterology of Westchester (Westchester County)

**Diagnostic and Treatment Centers - Establish/Construct**

**Exhibit # 5**

<u>Number</u>	<u>Applicant/Facility</u>
1. 152384 E	Suffolk Primary Health, LLC (Suffolk County)

**Residential Health Care Facilities - Establish/Construct**

**Exhibit # 6**

<u>Number</u>	<u>Applicant/Facility</u>
1. 152111 E	CCRNC, LLC d/b/a Crown Park Rehabilitation and Nursing Center (Cortland County)
2. 161091 E	YRNC Operating, LLC d/b/a Yorktown Rehabilitation & Nursing Center (Westchester County)
3. 161223 E	St Margaret's Center (Albany County)

**C. Home Health Agency Licensures**

**Home Health Agency Licensures**

**Exhibit # 7**

**Changes of Ownership**

<u>Number</u>	<u>Applicant/Facility</u>
2322 L	Hamilton Home Care, LLC d/b/a Hamilton Home Care (Madison and Onondaga Counties)

2322 A	Hamilton Home Care, LLC d/b/a Hamilton Limited Home Care Services Agency (Madison County)
2509 L	Senior Solutions Worldwide, Inc. d/b/a Wesley Senior Solutions (Saratoga County)
152199 E	111 Ensminger Road Operating Company, LLC d/b/a Elderwood Home Care at Tonawanda (Erie County)
152285 E	Helping U Homecare, Inc. (New York, Richmond, Kings, Bronx, Queens, and Nassau Counties)
152367 E	Focus RX Pharmacy Services, Inc. (Suffolk, Putnam, Westchester, Nassau, Rockland, Queens, Orange, and Ulster Counties)
161126 E	New Broadview Manor Home for Adults, LLC d/b/a New Broadview Manor Home for Adults LHCSA (Richmond County)

**D. Certificates**

**Exhibit # 8**

**Restated Certificate of Incorporation**

Applicant

1. Housing Works Health Services III, Inc.



Project # 152343-C
Long Island Jewish Medical Center

Program: Hospital
Purpose: Construction

County: Queens
Acknowledged: December 15, 2015

Executive Summary

Description

Long Island Jewish Medical Center (LIJMC), a 1,025-bed hospital located at 270-05 75th Avenue, New Hyde Park (Queens County), requests approval to certify a pediatric kidney transplantation program within its Cohen Children's Medical Center (CCMC), a 206-bed pediatric specialty unit of LIJMC. LIJMC is a hospital entity of Northwell Health, Inc., formerly known as North Shore-Long Island Jewish Health System, Inc.

LIJMC and North Shore University Hospital (NSUH) are two of the clinical and academic hubs of Northwell. In August 2007, the NYSDOH certified NSUH as an Adult Kidney Transplant Program. Development of a pediatric kidney transplant program at CCMC is intended to improve care for patients in CCMC's pediatric nephrology division. Professional staff will be jointly credentialed at NSUH and CCMC. The inpatient components of the pediatric kidney transplant program will utilize the resources of CCMC, enhanced by the experience from the adult transplant program. The outpatient center will be housed in the current outpatient nephrology clinic. The facility has dedicated examination rooms, a phlebotomy lab, nurse's station, urinalysis point of care testing, microscope, patient restrooms and reception/waiting area, and a proximate conference area for family meetings and transplant conferences.

The applicant indicated that CCMC currently provides pre- and post-kidney transplant services to approximately 100 children with or recovering from end-stage kidney disease, including those receiving hemodialysis and

peritoneal dialysis and 40 to 50 post-transplant patients. CCMC patients receive transplants elsewhere and return for follow-up as early as several weeks after transplant surgery. CCMC's nephrologists have vast experience caring for the problems of the pre- and post-transplant patient and having a Pediatric Transplant Program at CCMC will enable the patients to maintain continuity of care with their physicians, result in better access and convenience for patients and their families, and improve compliance for better long-term outcomes.

LIJMC is a member of Northwell, a comprehensive integrated delivery system formed to ensure the delivery of a broad range of quality healthcare services to the communities it serves, and to achieve economies of scale through consolidation, cooperation and joint planning among its members. LIJMC is a member of the Northwell Obligated Group, formed to provide its members an enhanced credit position and expanded access to capital markets.

OPCHSM Recommendation
Contingent Approval

Need Summary

The new transplant department will be integrated with North Shore University Hospital's existing kidney transplant services, which was approved in October 2007 for adult services only. Data from the Organ Procurement Transplantation Network (OPTN) shows that Northshore performed 31 adult transplants in 2015 (12 from deceased donors and 19 from

living donors). LIJMC's Cohen Children's Medical Center is the largest provider of inpatient services to pediatric patients in the state.

#### Program Summary

Based on the results of this review, a favorable recommendation can be made regarding the facility's current compliance pursuant to 2802-(3)(e) of the New York State Public Health Law.

#### Financial Summary

Project costs of \$259,911 will be met with accumulated funds. The incremental budget is as follows:

Revenues:	\$790,800
Expenses:	<u>2,128,000</u>
Gain(Loss):	(\$1,337,200)

LIJMC has submitted a letter from the Chief Financial Officer stating that they will absorb the operational losses of the Pediatric Kidney Transplant Program.

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]

**Approval conditional upon:**

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

**June 9, 2016**

## Need Analysis

### Project Description

Long Island Jewish Medical Center, a 1,025 bed Hospital located at 270-05 76<sup>th</sup> Ave, New Hyde Park, Queens County, is seeking CON approval to certify a kidney transplant program within its Cohen Children's Medical Center. Cohen Children's Medical Center currently operates a Pediatric Nephrology Division and kidney transplant services are certified at North Shore University Hospital, within the Northwell Health system.

### Analysis

Long Island Jewish Medical Center had an overall utilization rate of 84.3% and a pediatric utilization rate of 54.1% in 2014. A bed chart is provided below.

<b>Table 1: Long Island Jewish Medical Center Bed Chart</b>			
<b>Source: HFIS, 2015</b>			
<b>Bed Category</b>	<b>Certified Beds</b>	<b>Requested Action</b>	<b>Certified Capacity upon Completion</b>
Bone Marrow Transplant	4	0	4
Coronary Care	10	0	10
Intensive Care	62	0	62
Maternity	76	0	76
Medical/Surgical	435	0	435
Neonatal Continuing Care	4	0	4
Neonatal Intensive Care	24	0	24
Neonatal Intermediate Care	29	0	29
Pediatric	108	0	108
Pediatric ICU	37	0	37
Psychiatric	236	0	236
<b>Total</b>	<b>1,025</b>	<b>0</b>	<b>1,025</b>

A list of the currently certified services provided by Long Island Jewish Medical Center is given below. This project would add Transplant - Kidney services to the Hospital's operating certificate.

- Ambulance
- Ambulatory Surgery - Multi Specialty
- Audiology O/P
- Cardiac Catheterization - Adult Diagnostic
- Cardiac Catheterization - Electrophysiology (EP)
- Cardiac Catheterization - Pediatric Diagnostic
- Cardiac Catheterization - Percutaneous Coronary Intervention (PCI)
- Cardiac Surgery - Adult
- Cardiac Surgery - Pediatric
- Certified Mental Health Services O/P
- Chemical Dependence - Rehabilitation O/P
- Clinic Part Time Services
- Clinical Laboratory Service
- Coronary Care
- Dental O/P
- Emergency Department
- Epilepsy Comprehensive Services
- Intensive Care
- Linear Accelerator
- Lithotripsy
- Maternity
- Medical Services - Other Medical Specialties
- Medical Services - Primary Care
- Medical Social Services
- Medical/Surgical
- Methadone Maintenance O/P
- Neonatal Continuing Care
- Neonatal Intensive Care
- Neonatal Intermediate Care
- Nuclear Medicine - Diagnostic
- Nuclear Medicine - Therapeutic
- Pediatric
- Pediatric Intensive Care
- Podiatry O/P

- Poison Control Center
- Psychiatric
- Radiology - Diagnostic
- Radiology-Therapeutic
- Renal Dialysis - Acute
- Renal Dialysis - Chronic
- Therapy - Occupational O/P
- Therapy - Physical O/P
- Therapy - Speech Language Pathology
- Therapy - Vocational Rehabilitation O/P
- Transplant - Bone Marrow

Statewide pediatric kidney transplant volumes are provided in Table 2 below. The applicant estimates that 11 patients in Year 1 and 15 patients in Year 3 of this project would receive a kidney transplant at the Hospital. If successful, these volumes would make the applicant the largest provider of this service to children in the state and the only provider dedicated to pediatric care. While Section 708.5(d)(3) requires that a renal transplant center perform at least 15 procedures annually, the requirement does not differentiate adult and pediatric transplants. Most CON approvals do not specify adult versus pediatric services, but the 2007 approval of Northshore's kidney transplant program was restricted to adult services. The applicant predicts it will meet the volume requirement by Year 3 of operations. While the Department finds this prediction ambitious, considering current statewide pediatric kidney transplant volumes, (Table 2) and given that the adult program performed 31 transplants in 2015, the Department is satisfied volume requirement can be met.

<b>Table 2: STATEWIDE PEDIATRIC KIDNEY TRANSPLANT VOLUMES</b>							
<b>Source: United Network for Organ Sharing/Organ Procurement and Transplantation Network</b>							
<b>Facility</b>	<b>County</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
NYP - Columbia	New York	9	7	6	3	5	5
NYP-Weill Cornell Center	New York	9	8	8	2	8	5
SUNY Downstate/ University Hospital	Kings	0	1	0	3	0	1
Montefiore Medical Center	Bronx	11	6	6	7	8	6
Mt Sinai	New York	10	16	13	11	13	13
University Hospital of SUNY/ Stony Brook	Suffolk	3	1	6	1	4	0
Westchester Medical Center	Westchester	3	5	3	0	6	2
Albany Medical Center	Albany	0	0	0	2	1	1
Strong Memorial Hospital	Monroe	5	2	5	4	5	2
SUNY Upstate Medical Center/University Hospital SUNY Health Science Center	Onondaga	3	5	3	0	6	2
<b>TOTAL</b>		<b>53</b>	<b>51</b>	<b>50</b>	<b>33</b>	<b>56</b>	<b>37</b>
<b>TOTAL DECEASED DONOR</b>		<b>26</b>	<b>22</b>	<b>29</b>	<b>22</b>	<b>29</b>	<b>20</b>
<b>TOTAL LIVING DONOR</b>		<b>27</b>	<b>29</b>	<b>21</b>	<b>11</b>	<b>27</b>	<b>17</b>

North Shore University Hospital provided 31 Adult kidney transplants in 2015. The proposed pediatric program would be the responsibility of the Transplant Surgical Director at NSUH, the same person overseeing the existing successful Adult program. Furthermore, CCMC is a dedicated pediatric hospital which currently runs a Pediatric Nephology division. A pediatric kidney transplant program would complement this division and allow the Hospital to provide continuity of care for its patients.

Northshore University Hospital Adult kidney transplant statistics are provided in Table 3 below.

<b>Table 3: North Shore University Hospital Adult Kidney Transplant Volume</b>						
<b>Source: United Network for Organ Sharing/Organ Procurement and Transplantation Network</b>						
	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Deceased donor</b>	1	3	7	17	14	12
<b>Living donor</b>	34	40	9	13	16	19
<b>Total</b>	<b>35</b>	<b>43</b>	<b>16</b>	<b>30</b>	<b>30</b>	<b>31</b>

## Conclusion

The applicant runs a large quaternary pediatric Hospital with a well-utilized Pediatric Nephrology division. Children who receive nephrology services (including inpatient and outpatient renal hemodialysis) at the hospital are currently required to receive kidney transplants from another provider within the applicant's health network. This can cause disruptions in care and, particularly for children, can make an already traumatizing experience even more difficult. Certifying kidney transplantation services at this location will provide a safer, more efficient and more convenient experience for children at the Hospital.

## Recommendation

**From a need perspective, approval is recommended.**

# Program Analysis

## Project Proposal

Long Island Jewish Medical Center, an existing not-for-profit Article 28 hospital located at 270-05 76<sup>th</sup> Avenue in New Hyde Park (Queens County), seeks approval to certify a kidney transplant program within its Cohen Children's Medical Center. Cohen Children's Medical Center (CCMC; Cohen's) operates a Pediatric Nephrology Division as well as a Level I Pediatric Trauma Center.

The pediatric transplant application is an extension of the adult kidney transplant program at North Shore University Hospital (NSUH) which will expand its expertise, quality and infrastructure to the pediatric transplant program. NSUH is located less than two miles from CCMC and is also a member of Northwell Health (formerly known as North Shore-LIJ Health System, Inc.).

Pediatric transplant services are an extension in the development of a pediatric end-stage renal disease program at CCMC as Cohen's nephrologists have extensive experience in caring for patients who are pre/post kidney transplant or recovering from end-stage kidney disease (including those receiving hemo- or peritoneal dialysis) and post-transplant patients. The creation of a pediatric transplant center at CCMC will afford patients with better continuity of care, access and convenience potentially leading to better long-term outcomes.

Staffing is expected to increase by 3.5 FTEs in year one of the completed project, and to increase by a total of 4.0 FTEs by the third year of operation.

## Kidney Transplant Program Review

Staff review of the proposed project included a review of the United Network for Organ Sharing/Organ Procurement and Transplantation Network (UNOS/OPTN) and the Scientific Registry of Transplant Recipients (SRTR) data on kidney transplant volumes and outcomes at Northshore University Hospital (NSUH) and volumes at all other hospitals that perform pediatric kidney transplants. Data from UNOS/OPTN demonstrated that NSUH performed 31 transplants in 2015 (12 living, 19 deceased); 30 transplants in 2014; and 30 in 2013.

More recent mortality data was requested from the applicant as the SRTR website had not been recently updated and the data provided with the application referenced 2011. The applicant provided the following:

<b>SRTR Outcomes for Mortality and Graft Survival at North Shore University Hospital 1-Year Post-transplant Outcomes (07/01/2012-12/31/2014)</b>	<b>Observed</b>	<b>Expected</b>	<b>Statistical Significance of Difference</b>
Adult graft survival (based on 57 transplants) (%)	95.85	96.10	Not Significantly Different
Adult patient survival (based on 52 transplants) (%)	95.35	98.00	Not Significantly Different

Cohen Children’s Medical Center was approved as a Level I Pediatric Trauma Center by the American College of Surgeons on November 7, 2014.

On January 8, 2016, interim approval from the Membership and Professional Standards Committee of the UNOS/OPTN was granted to the proposed pediatric transplant program. The program received final approval on March 16, 2016.

Department staff reached out to LiveOnNY, the New York City Metro-area organ procurement agency (OPO), concerning their experience partnering with Northwell Health. According to LiveOnNY, Northwell has been an excellent partner and has worked very well with them in an effort to improve donor consent rates. LiveOnNY reported that Northwell has already been in contact with them regarding the prospective addition of a pediatric kidney transplant program at Cohen Children’s Medical Center.

Department staff also sought the input of several members of the NYS Transplant Council pertaining to this application’s strengths and weaknesses. The members were provided with the following for review: the CON application; UNOS/OPTN and SRTR data for volumes at existing pediatric transplant centers and volumes and mortality at the Northshore adult transplant program; the UNOS/OPTN application to initiate a pediatric kidney transplant program; existing and pending UNOS/OPTN bylaws for transplant centers (in particular pediatric transplant training/experience requirements for physicians and surgeons); a letter from an existing pediatric transplant center opposing the application; and organ donation education and promotion efforts.

The group acknowledged that, according to information provided by the applicant, Cohen Children’s Medical Center has robust inpatient and outpatient dialysis services. Overall, the members opined that the application was sound and that adding transplantation to the comprehensive nephrology service is consistent with the mission of a children’s hospital and with the needs of the community.

Further, the members strongly suggested that the new kidney transplant program be integrated into the organ donation efforts of Northwell Health and that Cohen’s reinforce its commitment to pediatric organ donation by integrating its efforts within Northwell Health’s activities and through working with LiveOnNY.

Of note, UNOS/OPTN has proposed new pediatric physician/surgeon experience requirements. However, while it has been an area of discussion at UNOS/OPTN for many years, the requirements are not yet effective. Members of the Transplant Council reviewed the proposed experience prerequisites and concurred that the Applicant would meet the new conditions.

The Department staff review included an evaluation of the pediatric kidney transplant volumes at other transplant centers. Generally, pediatric transplant is a low volume service. For this reason, CMS, NYSDOH and UNOS/OPTN do not have minimum operational pediatric transplant volume requirements. The review determined that the impact on other programs would be limited and that the benefit of a comprehensive pediatric nephrology center, which includes transplantation, outweighs any potential negative impact on other programs.

In addition, the Department solicited comment on the application from the other pediatric transplant centers in New York State. A single NYC metro area hospital responded by letter expressing that families and children in metropolitan New York (already) have access to full services and noted a limiting factor to be the lack of deceased donor organ supply. While this point is valid, the application included a proposal to use living donation (as is consistent with other pediatric transplant programs) as a key component of its services, so the impact on deceased donor organs is limited. In addition, since Cohen Children's Medical Center provides comprehensive pediatric nephrology care (including dialysis), including transplantation as a service will eliminate the need for families to travel and be evaluated and transplanted by an entirely different medical team. The benefit of this outweighs the seemingly minimal impact on existing low volume pediatric centers.

The Applicant's submitted written plan demonstrates an ability to comply with all the standards for a kidney transplant program and the Applicant has assured the Department that their program will meet all of the requirements of 10 NYCRR 405.30 and 405.31 as well as be in compliance with the relevant CMS Conditions of Participation for Transplant Centers.

#### Compliance with Applicable Codes, Rules and Regulations

The adult kidney transplant program at North Shore University Hospital received Center for Medicare and Medicaid Services (CMS) approval on April 4, 2008. A Medicare transplant program re-approval survey was conducted on August 11-12, 2016 and no deficiencies were identified.

This facility has no outstanding Article 28 surveillance or enforcement actions and, based on the most recent surveillance information, is deemed to be currently operating in substantial compliance with all applicable State and Federal codes, rules and regulations. This determination was made based on a review of the files of the Department of Health, including all pertinent records and reports regarding the facility's enforcement history and the results of routine Article 28 surveys as well as investigations of reported incidents and complaints.

North Shore University Hospital was fined \$18,000 in a Stipulation and Order issued by the Department on December 11, 2008. The issues noted were based on a complaint regarding post-operative care rendered to an elderly patient. Following surgery for an aneurysm, the patient fell out of bed resulting in a dislocated femur and developed multiple decubiti and renal failure. Investigation determined that follow-up care was delayed or inadequately administered.

#### Recommendation

**From a programmatic perspective, approval is recommended.**

## Financial Analysis

### Total Project Cost and Financing

Total cost of the project is anticipated to be \$259,911, broken down as follows:

Architect and Engineering Fees	\$6,500
Telecommunications	250,000
CON Application Fee	2,000
Additional CON Fees	<u>1,411</u>
<b>Total Project Cost</b>	<b>\$ 259,911</b>

Total Project Cost will be met with accumulated funds.

### Operating Budget

The applicant has submitted an incremental operating budget for the first and third years of operation of the service. The budget includes revenue and expense associated with the hospital stay for living kidney donors as well as for the recipients. The budget is summarized below:

	<u>First Year</u>	<u>Third Year</u>
<b>Inpatient Revenue</b>		
Medicaid	\$479,600	\$654,000
Medicare	<u>0</u>	<u>74,100</u>
<b>Total Inpatient Revenue</b>	<b>\$479,600</b>	<b>\$728,100</b>
<b>Outpatient Revenue</b>		
Medicaid	\$26,700	\$44,200
Medicare	<u>11,200</u>	<u>18,500</u>
<b>Total Outpatient Revenue</b>	<b>\$37,900</b>	<b>\$62,700</b>
<b>Total Revenue</b>	<b>\$517,500</b>	<b>\$790,800</b>
<b>Inpatient Expense</b>		
Operating	\$1,594,800	\$2,086,500
Capital	<u>36,400</u>	<u>36,400</u>
<b>Total Inpatient Expense</b>	<b>\$1,631,200</b>	<b>\$2,122,900</b>
<b>Outpatient Expense</b>		
Operating	<u>\$3,100</u>	<u>\$5,100</u>
<b>Total Outpatient Expense</b>	<b>\$3,100</b>	<b>\$5,100</b>
<b>Total Expense</b>	<b>\$1,634,300</b>	<b>\$2,128,000</b>
<b>Net Income (Loss)</b>	<b><u>(\$1,116,800)</u></b>	<b><u>(\$1,337,200)</u></b>
<b>Transplants</b>	11	15
<b>Cost per Procedure</b>	\$148,290.91	\$141,526.67
<b>Outpatient Visits</b>	330	546
<b>Cost per Visit</b>	\$9.39	\$9.34

The budget is based on the following assumptions:

- Inpatient expenses apply to the actual transplant procedure and full inpatient stay.
- The clinical program assumes organs will come from both live and deceased donors. All related live donor expenses as well as the costs related to deceased donor organ acquisition are included in inpatient expenses.
- Fees for the United Network for Organ Sharing and New York Organ Donor Network are included as part of the inpatient expenses.
- Outpatient volume represents post-transplant office visits which will result in minimal incremental supply expense.
- The projected outpatient utilization can be accommodated by existing hospital staff, requiring no additional FTEs to be hired.
- The projected payor mix was based on the pediatric patients currently seen at LIJMC that are referred outside of Northwell Health (NS-LIJ Health System, Inc.) for kidney transplant services.

Utilization by payor source is anticipated as follows:

	<u>Year One</u>	<u>Year Three</u>	<u>Year One and Three</u>
	<u>Inpatient</u>	<u>Inpatient</u>	<u>Outpatient</u>
Medicare	0.0%	13.3%	30%
Medicaid	72.7%	66.7%	70%
Other	27.3%	20.0%	---

The budget is based on NYS DRG 440 (Medicaid) and MS DRG 652 (Medicare) for kidney transplants for reimbursement of costs. Reimbursement for other payors is anticipated to approximate Medicaid. Revenues and expenses are based on the existing adult kidney transplant program at NSUH, adjusted to projected pediatric volume and patient utilization at Long Island Jewish Medical Center.

#### Capability and Feasibility

The total project cost of \$259,911 will be provided from accumulated funds. Based on BFA Attachment B, the financial summary for Long Island Jewish Medical Center, adequate funds are available.

The submitted budget indicates that a net incremental loss of \$1,116,800 and \$1,337,200 will be generated for the first and third years, respectively. Long Island Jewish Medical Center has submitted a letter from the CFO stating that they will absorb the operational losses of the Pediatric Kidney Transplant program. The budget is based on existing reimbursement methodologies, including reimbursement for both donors and recipients. The budget appears reasonable.

#### Recommendation

**From a financial perspective, approval is recommended.**

## Attachments

- BFA Attachment A Organizational Chart of the Northwell Health, Inc.
- BFA Attachment B Financial Summary- Long Island Jewish Medical Center



**Project # 161080-C  
Phelps Memorial Hospital Assn**

**Program: Hospital  
Purpose: Construction**

**County: Westchester  
Acknowledged: February 23, 2016**

**Executive Summary**

**Description**

Phelps Memorial Hospital Association (Phelps), a 238-bed, not-for-profit, Article 28 acute care hospital located at 701 North Broadway, Sleepy Hollow (Westchester County), seeks approval to add Therapeutic Radiology Services and construct a Linear Accelerator (LINAC) Radiation Oncology Unit. Additionally, the hospital seeks to revise their operating certificate by removing the hospital outpatient building located at 777 North Broadway as a separate location (currently listed as an extension clinic, but actually part of the hospital campus) and replacing Primary Medical Care O/P with the current licensure categories of Medical Services-Primary Care and Medical Services-Other Medical Specialties. Adding Therapeutic Radiology and operationalizing the above services will allow Phelps to continue to provide medical oncology, outpatient chemotherapy infusion and outpatient radiation therapy (radiation oncology) services to the residents of Westchester County. The services are currently being provided by Memorial Sloan Kettering Hospital (MSKH) at the 777 North Broadway Outpatient Hospital Building location in space MSKH leases from Phelps. MSKH will be vacating the building as of August 2016, thereby closing its oncology clinic program at this location. Phelps will re-occupy this space and intends to continue providing the oncology services at the vacated site under its own licensure.

The proposed therapeutic radiology program will include ten infusion bays, one linear accelerator, a chemotherapy mixing pharmacy and a specialized oncology laboratory. The proposed space will encompass 26,806 square feet

located in the existing space being vacated by MSKH.

In January 2015, Phelps became a member of the former North Shore-LIJ Health System, now called Northwell Health. Northwell Health, Inc. is the sole member and passive parent of Phelps. Per the applicant, a CON to establish Northwell Health Care, Inc. as active parent and co-operator of Phelps is pending submission. BFA Attachment A is an organizational chart of Northwell Health, Inc. and its member facilities.

**OPCHSM Recommendation  
Contingent Approval**

**Need Summary**

Phelps Memorial Hospital Association is within the Hudson Valley planning region, which currently has 19 approved or existing Article 28 LINAC machines and has a determined need for 31 LINAC machines. Approval of this project will help meet the remaining need for LINAC machines in the Hudson Valley region.

The applicant projects that 5,000 radiation treatments will be provided annually, starting from Year 1 and continuing through Year 5. This is the minimum number of treatments required by regulation. The applicant projects that the outpatient chemotherapy program will treat 780 patients in Year 1, 2,600 patients in Year 3, and 5,200 patients in Year 5.

### Program Summary

Based on the results of this review, a favorable recommendation can be made regarding the facility's current compliance pursuant to 2802-(3)(e) of the New York State Public Health Law.

### Financial Summary

Project costs of \$7,122,890 will be met with \$712,290 in accumulated funds and issuance of a tax-exempt bond for \$6,410,600 at a fixed interest rate of 6.5% for a 30-year term. Citigroup Global Markets, Inc. has provided a letter of interest for the financing.

The incremental budget is as follows:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$4,153,800	\$5,970,100
Expenses	<u>\$6,888,800</u>	<u>\$8,112,200</u>
Net Income	(\$2,735,000)	(\$2,142,100)

The Chief Financial Officer (CFO) of Northwell Health, Inc. has provided a letter stating Northwell is committed to supporting the program and will provide financial support to absorb budgeted operating losses related to this program.

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a bond resolution acceptable to the Department of Health. Included with the submission must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]

**Approval conditional upon:**

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. The applicant is required to submit Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, prior to the applicant's start of construction for record purposes. [AER]
3. Construction must start on or before 08/15/2016 and construction must be completed by 09/15/2016, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the start date this shall constitute abandonment of the approval. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. [AER]
4. All devices producing ionizing radiation must be licensed by the New York State Department of Health -- Bureau of Environmental Radiation Protection. [HSP]

Council Action Date

**June 9, 2016**

## Need Analysis

### Background

Memorial Sloan Kettering (MSK) leases space from Phelps Memorial Hospital to operate an oncology clinic there with 2 Linear Accelerators (LINACS). When the lease expires in August 2016, MSK will relocate all services there, including both LINACS, to the extension clinic it operates at 500 Westchester Avenue, Harrison, Westchester County. This relocation was contingently approved by the Department in CON 152139 and will result in no net change in the number of approved LINACS in the county. The Applicant for this project, Phelps Memorial Hospital Association, is proposing to continue providing the oncology services at the vacated site under its own license with one LINAC.

### Analysis

The need methodology set forth in 10 NYCRR Section 709.16 calculates the need for therapeutic radiology devices by health planning region. Department regulations require that at least ninety-five percent of the total population of the Hudson Valley region live within one hour's driving time of a LINAC. Furthermore, the need for LINAC machines is determined by assuming that 60% of the cancer cases in a planning region will be candidates for radiological therapy. Of these, half will require 15 treatments a year and half will require 35. Each LINAC machine can provide 6,500 treatments per year.

The table below shows need for 11 additional LINAC machines in the Hudson Valley health planning region after approval of this project:

	<b>LINAC Need in Hudson Valley Region</b>	<b>Total</b>
1	# of Cancer Cases/Year	13,044
2	60% will be Candidates for Radiation Therapy	7,827
3	50% of (2) will be Curative Patients	3,914
4	50% of (2) will be Palliative Patients	3,914
5	Course of Treatment for Curative Patients is 35 Treatments	136,990
6	Course of Treatment for Palliative patients is 15 Treatments	58,710
7	The Total Number of Treatments [(5)+(6)]	195,700
8	Need for LINAC Machines <sup>1</sup> [(7)/6,500]	31
9	Existing/Approved Resources (Upon Approval of CON 161080)	20
10	Remaining Need for LINAC Machines [(8)-(9)]	11

<sup>1</sup>Each LINAC Machine has capacity for 6,500 Treatments

The Hudson Valley health planning region currently has a total of 15 facilities - 10 hospitals and 5 hospital extension clinics - providing linear accelerator services as follows:

Current Resources	# Facilities With LINAC Services			# LINAC Machines		
	Hospitals	Hospital Clinics	Total	In Hospitals	In Hospital Clinics	Total
Hudson Valley Region						
Dutchess	1	1	2	2	1	3
Orange	3	1	4	3	1	4
Putnam	1	0	1	1	0	1
Rockland	0	0	0	0	0	0
Sullivan	0	0	0	0	0	0
Ulster	0	1	1	0	1	1
Westchester	5	2	7	6	4	10
<b>Total Hudson Valley Region</b>	<b>10</b>	<b>5</b>	<b>15</b>	<b>12</b>	<b>7</b>	<b>19</b>

This project will not change the number of residents who live within one hour driving time of a LINAC, because therapeutic radiology is already provided at the proposed location.

## Conclusion

There is still a need for 11 additional LINAC machines in the Hudson Valley planning region. This project would allow for the continuation of services for the community who choose to receive oncology treatment at this facility after MSK relocates its operations. Approval of this project will ensure continuity of care for cancer patients in the region and maintain geographic coverage.

## Recommendation

**From a need perspective, approval is recommended.**

# Program Analysis

## Project Proposal

Phelps Memorial Hospital, an existing not-for-profit 238-bed Article 28 community hospital located at 701 North Broadway in Sleepy Hollow (Westchester County), requests approval to add a Linear Accelerator and Therapeutic Radiology Services. By adding/operationalizing these services, Phelps plans to provide medical oncology services, outpatient chemotherapy infusion and outpatient radiation therapy (radiation oncology) services to residents of Westchester County. Phelps is a member of Northwell Health, Inc. (formerly North Shore-LIJ Health System, Inc.), which is currently the passive parent of Phelps.

Additionally, the hospital seeks to revise its operating certificate by removing the hospital outpatient building at 777 North Broadway as a separate location (currently listed as an extension clinic but actually a part of the hospital campus and physically attached to the main hospital building by a short pedestrian bridge) and replacing Primary Care-O/P with the categories of Medical Services-Primary Care and Medical Services - Other Medical Specialties.

The services have been provided at Phelps at the 777 North Broadway Outpatient Hospital Building by Memorial Sloan Kettering Hospital (MSK) in leased space, however, MSK will be vacating as of August 2016 and, with approval of this project, Phelps intends on re-occupying this space to provide the exact same services to the community.

First year staffing will consist of 30.5 FTEs which will expand to 33.0 FTEs by the third year of operation.

## Compliance with Applicable Codes, Rules and Regulations

This facility has no outstanding Article 28 surveillance or enforcement actions and, based on the most recent surveillance information, is deemed to be currently operating in substantial compliance with all applicable State and Federal codes, rules and regulations. This determination was made based on a review of the files of the Department of Health, including all pertinent records and reports regarding the facility's enforcement history and the results of routine Article 28 surveys as well as investigations of reported incidents and complaints.

## Recommendation

**From a programmatic perspective, approval is recommended.**

## Financial Analysis

### Financial Analysis

Total project cost for new construction and equipment is estimated at \$7,122,890, broken down as follows:

Renovation & Demolition	\$269,500
Design Contingency	26,950
Construction Contingency	26,000
Architect/Engineering Fees	21,000
Movable Equipment	3,629,100
Telecommunications	2,769,220
Financing Costs	340,169
Application Fee	2,000
Processing Fee	<u>38,951</u>
Total Project Cost	\$7,122,890

Total costs are based on a construction start date of August 15, 2016, and a completion date of September 15, 2016.

The applicant's financing plan appears as follows:

Cash Equity (Applicant)	\$712,290
Bond Financing (30 years at 6.5% interest)	<u>\$6,410,600</u>
Total	\$7,122,890

### Operating Budget

The applicant has submitted an incremental operating budget, in 2015 dollars, for the first and third years, summarized below:

	<u>Per Visit</u>	<u>Year One</u>	<u>Per Visit</u>	<u>Year Three</u>
<u>Revenues</u>				
Commercial Managed Care	\$1,417.46	\$1,851,200	\$1,501.40	2,576,400
Medicare Fee-For-Service	\$516.93	1,755,500	\$572.18	2,552,500
Medicare Managed Care	\$668.40	412,400	\$799.63	648,500
Medicaid Managed Care	\$391.84	115,200	\$445.85	172,100
Private Pay/Other	\$104.28	<u>19,500</u>	\$83.74	<u>20,600</u>
Total Revenue		\$4,153,800		\$5,970,100
<u>Expenses</u>				
Operating		4,521,900		5,687,200
Capital		<u>2,366,900</u>		<u>2,425,000</u>
Total		\$6,888,800		\$8,112,200
Net Income/(Loss)		(\$2,735,000)		(\$2,142,100)
Total Visits		5,800		7,620

Utilization by payor source for the first and third years is as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial Managed Care	22.52%	22.52%
Medicare Fee-For-Service	58.55%	58.54%
Medicare Managed Care	10.64%	10.64%
Medicaid Managed Care	5.07%	5.07%
Private Pay/Other	3.22%	3.23%

The following is noted with respect to the submitted budget:

- Revenue and expense assumptions are estimated based on the experience of existing comprehensive cancer center programs within Northwell Health, and have been adjusted for the projected Phelps volume and patient utilization.
- Utilization assumptions are based on the services currently being provided at the proposed location. MSKH leases this space from Phelps and provides outpatient chemotherapy and radiation medicine. Effective August 2016, MSKH will vacate the leased space and close its oncology clinic program at the 777 North Broadway location.
- Breakeven utilization is projected at 9,619 visits and 10,354 visits for Year One and Year Three, respectively.

The applicant indicated that the service will break even on a contribution margin basis starting in year five, but the net income will still be at a loss. Northwell Health, Inc.'s CFO has provided a letter stating that Northwell is committed to supporting the program to serve the needs of the community, and will provide financial support to absorb budgeted losses related to this program.

#### Capability and Feasibility

Project costs of \$7,122,890 will be met with \$712,290 in accumulated funds and the issuance of a tax-exempt bond for \$6,410,600 at a fixed interest rate of 6.5% for a 30-year term. Citigroup Global Markets, Inc. has provided a letter of interest to underwrite the bond financing based on their review of Northwell Health Obligated Group's financial statements. BFA Attachments B and C are a summary of the draft 2015 consolidated financial statements of Northwell Health Inc. (includes Phelps Memorial Hospital Association) and the 2014 consolidated financials of Phelps Memorial Hospital Association, respectively, which indicate sufficient resources to fund the project.

Working capital requirements are estimated at \$1,352,033 based on two months of third year expenses. The applicant will provide the full amount from its operations. As shown in BFA Attachments B and C, the hospital has sufficient resources to fund working capital.

The submitted incremental budget indicates a deficit of revenues over expenses of \$2,735,000 and \$2,142,100 during the first and third years, respectively. Revenues reflect current outpatient reimbursement methodologies for ambulatory payment classification services. The budget appears reasonable. The CFO of Northwell Health, Inc. has provided a letter stating Northwell is committed to financially supporting the program and will absorb budgeted losses. Also, the applicant states that Management continues to focus on various initiatives such as revenue cycle improvement, supply chain savings and productivity and efficiency initiatives to counteract programmatic losses.

As shown on BFA Attachments B and C, the hospital maintained positive working capital, positive net asset positions, and operations had an excess of revenues over expenses of \$3,995,000 and \$1,006,000 for 2015 and 2014, respectively.

The applicant has demonstrated the capability to proceed in a financially feasible manner, and contingent approval is recommended.

#### Recommendation

**From a financial perspective, contingent approval is recommended.**

## Attachments

- BFA Attachment A Organizational Chart - Northwell Health, Inc.
- BFA Attachment B Financial Summary - Northwell Health Inc., (includes Phelps Memorial Hospital Association, draft 2015 consolidated)
- BFA Attachment C Financial Summary of Phelps Memorial Hospital Association - 2014 certified financial statements



Project # 161121-C
New York Methodist Hospital

Program: Hospital
Purpose: Construction

County: Kings
Acknowledged: March 23, 2016

Executive Summary

Description

New York Methodist Hospital (NYM), a 591-bed, voluntary not-for-profit, Article 28 teaching hospital in Brooklyn, requests approval to construct a new ambulatory care center at 515 6th Street, Brooklyn, (Kings County). The proposed facility, the NYM Center for Community Health (CCH), will be an extension clinic located across the street from the hospital. The proposed building has two levels of below ground parking and six levels of above ground clinical space. The proposed CCH will include the following services: Multispecialty Ambulatory Surgery; Special Procedure Suite for endoscopy, bronchoscopy and pain management; Pre-admission testing; Imaging Center with digital x-ray, Magnetic Resonance Imaging, Ultrasound, and PET-CT; Orthopedics; Cardiology; GI; and a Cancer Center that includes an infusion center. Additionally, in response to the changing healthcare environment, approximately 53,600 square feet will be reserved for future programmatic needs.

The applicant is building the CCH to relocate certain existing programs in a more patient-centered environment to improve patient experience, promote operational efficiencies and increase care coordination. Ambulatory surgery and special procedures are currently done in the same space as the inpatients. With the CCH, inpatients will no longer be comingled with lower acuity outpatients, which will improve patient experience and free up procedure capacity so inpatients can receive treatments in a more timely manner. Other clinical programs are

being moved to the CCH because their current spaces are overcrowded and cannot accommodate the existing volume in a patient centered environment.

Founded in 1881, New York Methodist Hospital is affiliated with the Weill Cornell Medical College and is a member of the New York Presbyterian Regional Hospital Network. NYM's active parent is NYHP, Inc.

OPCHSM Recommendation
Contingent Approval

Need Summary
Proposed services are: Medical Services- Other Medical Specialties and Multi-Specialty Ambulatory Surgery services. 5,729 visits are projected in Year 1.

Program Summary
Based on the results of this review, a favorable recommendation can be made regarding the facility's current compliance pursuant to 2802-(3) of the New York State Public Health Law.

Financial Summary
The total project cost is \$444,904,571 including the cost of the fit out space and shell space construction. The project cost is broken down as follows: \$417,030,348 for Article 28 space and \$27,874,323 for non-Article 28 space. Reimbursement is limited to the Article 28 portion. Financing for the Article 28 component is as follows:

Equity of \$89,511,989 and \$327,518,359 bond financing at 4.34% interest rate for a 30-year term. The applicant has submitted a letter of interest in regard to the financing. The applicant will provide equity to meet the total project cost for the non-Article 28.

Enterprise Budget (Third Year):

Revenues	\$917,992,204
Expenses	<u>848,006,638</u>
Gain	\$69,985,566

Incremental Budget (Third Year):

Revenues	\$11,229,204
Expenses	<u>42,608,638</u>
Gain/(Loss)	(\$31,379,434)

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a bond resolution, acceptable to the Department of Health. Included with the submitted bond resolution must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]
3. The submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-03. The state hospital code drawings must address all issues noted in the March 29, 2016 request for additional information sent by the Bureau of Architectural and Engineering Review, including ensuring that there are direct sightlines from the nurse stations to all recovery bays in the PACU's. [AER]

**Approval conditional upon:**

1. The project must be completed within five years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. The submission of Final Construction Documents, signed and sealed by the project architect, as described in BAEFR Drawing Submission Guidelines DSG-05, prior to the applicant's start of construction. [AER]
3. Construction must start on or before August 1, 2016 and construction must be completed by July 31, 2019, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the start date this shall constitute abandonment of the approval. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. [AER]
4. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
5. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
6. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
7. The clinical space must be used exclusively for the approved purpose. [HSP]
8. All devices producing ionizing radiation must be licensed by the New York State Department of Health - Bureau of Environmental Radiation Protection. [HSP]
9. To provide Clinical Laboratory Services, licensure by the New York State Department of Health - Wadsworth Center is required. [HSP]

Council Action Date

**June 9, 2016**

# Need Analysis

## Background and Analysis

The service area is Kings County. The population of Kings County in 2010 was 2,504,700 with 877,822 individuals (35%) age 45 and over, which is the primary population group utilizing Ambulatory surgery services. Per projection data from the Cornell Program on Applied Demographics (PAD), this population group (45 and over) is estimated to grow to 941,703 by 2025, representing 36.5% of the projected population of 2,583,413.

New York Methodist is looking to accommodate the increased demand for outpatient services and to relocate existing programs in a more patient-centered environment that will improve the patient experience and increase care coordination. The proposed clinic will offer the following services: Multispecialty ambulatory surgery; Pre-admission testing; Imaging center with digital X-Ray, MRI, Ultrasound, and CT-Scan; Orthopedics; Cardiology; GI; and a Cancer Center that includes an infusion center. The hours of operation will be Monday through Friday from 7:30 am to 6:00 pm.

## Prevention Quality Indicators-PQIs

PQIs are rates of admission to the hospital for conditions that can be prevented with good outpatient care, or for which early intervention can prevent complications or conditions of greater severity.

The table below shows the overall PQI rates for Kings County and New York State. The overall PQI rate is higher for Kings County than for New York State as a whole.

## Hospital Admissions per 100,000 Adults for Overall PQIs

PQI Rates-2014	Kings County	New York State
All PQIs	1,514	1,387

Source: DOH Health data, 2015

5,729 visits are projected in Year 1 and 9,891 in Year 3.

The applicant is committed to serving all persons in need without regard to ability to pay or source of the payment.

## Conclusion

Approval of the proposed extension clinic will allow for continued access to a variety of medical and surgery services for the population of Kings County and the surrounding areas.

## Recommendation

**From a need perspective, approval is recommended.**

## Program Analysis

### Project Proposal

New York Methodist Hospital (NYM), an existing 591-bed not-for-profit teaching hospital, located at 506 6<sup>th</sup> Street in Brooklyn, seeks approval to establish and construct a new ambulatory care center. The proposed facility, the NYM Center for Community Health (CCH), will be an extension clinic across the street from NYM at 515 6<sup>th</sup> Street, Brooklyn.

The proposed building has two levels of below ground parking and six levels of above ground clinical space. The proposed CCH will include the following services: Multispecialty Ambulatory Surgery (for endocrinology, gynecology, head and neck, neurosurgery, obstetrics, oral surgery, orthopedics, otolaryngology, podiatry, plastic surgery, general surgery, urology, and vascular surgery); Special Procedures Suite (for endoscopy, bronchoscopy, and pain management); Pre-admission testing; Imaging Center with digital x-ray, Magnetic Resonance Imaging, ultrasound, and PET-CT; Orthopedics, Cardiology and Gastrointestinal Services; and a Cancer Center that includes an infusion center. In addition, approximately 53,000 square feet will be reserved for future programmatic needs.

The CCH will relocate certain existing programs into a more patient-centered environment which is expected to improve patient experience, operational efficiencies and care coordination. Currently, ambulatory surgery and special procedures are done in the same space as the inpatients. With the CCH, the Hospital will no longer commingle inpatients and lower acuity outpatients with the aim of improving both the patient experience and freeing up procedure capacity so that inpatients can receive their treatments in a more timely manner. Other clinical programs in the building are being moved to the CCH due to volume and overcrowding in their current space.

NYM is affiliated with the Weill Cornell Medical College and is a member of the New York-Presbyterian Regional Hospital Network. NYM's active parent is NYHB, Inc.

Upon completion of the project, the hospital anticipates adding 63.0 FTEs by the end of year one and it will remain at that level through the third year of operation.

### **Compliance with Applicable Codes, Rules and Regulations**

This facility has no outstanding Article 28 surveillance or enforcement actions and, based on the most recent surveillance information, is deemed to be currently operating in substantial compliance with all applicable State and Federal codes, rule and regulations. This determination was made based on a review of the files of the Department of Health, including all pertinent records and reports regarding the facility's enforcement history and the results of routine Article 28 surveys as well as investigation of reported incidents and complaints.

### Recommendation

**From a programmatic perspective, approval is recommended.**

## Financial Analysis

### Total Project Cost and Financing

The total project cost for the Article 28 space and the Non-Article 28 space is \$444,904,671, detailed as follows:

	<u>Article 28</u>	<u>Non-Article 28</u>	<u>Total Project Cost</u>
New Construction	\$244,538,428	\$24,579,047	\$269,117,475
Site Development	3,878,608	0	3,878,608
Temporary Utilities	1,300,000	0	1,300,000
Design Contingency	20,265,883	2,066,324	22,332,207
Construction Contingency	12,728,678	1,228,952	13,957,630
Planning Consultant Fees	2,555,000	0	2,555,000
Architect/Engineering Fees	20,024,330	0	20,024,330
Construction Manager Fees	6,638,835	0	6,638,835
Other Fees (Consultant)	11,833,498	0	11,833,498
Moveable Equipment	29,038,373	0	29,038,373
Telecommunications	9,445,605	0	9,445,605
Financing Costs	5,600,000	0	5,600,000
Interim Interest Expense	46,900,000	0	46,900,000
CON Fee	2,000	0	2,000
Additional Processing Fee	<u>2,281,110</u>	<u>0</u>	<u>2,281,110</u>
Total Project Cost	<u>\$417,030,348</u>	<u>\$27,874,323</u>	<u>\$444,904,671</u>

**Reimbursement is limited to project costs associated with Article 28: \$417,030,348.**

Project costs are based on a construction start date of August 1, 2016, and a 30-month construction period.

The applicant's financing plan appears as follows:

Equity	\$117,386,312
Bond Financing (4.34% interest rate for a 30-year term)	<u>327,518,359</u>
Total	<u>\$444,904,671</u>

The applicant has submitted a letter of interest from Goldman, Sachs & Co. in regard to underwriting the Bond Financing.

### Operating Budget

The applicant has submitted an incremental operating budget, in 2016 dollars, for the first and third years, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues (Outpatient)*		
Medicaid Fee-For-Service	\$49,988	\$85,729
Medicaid Managed Care	627,428	1,076,037
Medicare Fee-For-Service	498,564	855,036
Medicare Managed Care	369,971	634,499
Commercial Managed Care	2,136,305	3,663,759
Private Pay	62,363	106,954
Other Operating Revenues**	1,307,190	1,307,190
Medicaid Capital Reimbursement	<u>3,500,000</u>	<u>3,500,000</u>
Total Revenues	<u>\$8,553,809</u>	<u>\$11,229,204</u>

Expenses		
Operating	\$9,663,638	\$9,663,638
Capital	<u>33,539,000</u>	<u>32,945,000</u>
Total Expenses	\$43,202,638	\$42,608,638
Excess of Revenues over Expenses	(\$34,648,829)	(\$31,379,434)
Utilization (Visits)	5,729	9,891

\* Revenue by payor is estimated based on net patient revenue by payor per the 2014 ICR- Exhibit 46.

\*\*Other operating revenues consists of Parking and Retail revenues.

Medicaid capital reimbursement revenues are based on the portion of the capital costs that will be reimbursed via capital pass through.

The applicant has submitted a letter indicating that the hospital will offset any incremental losses from operations. Expense and utilization assumptions are based on the applicant's historical experience. The applicant indicated that they do not anticipate taking away visits from any other facility.

Utilization broken down by payor source during the first and third years is as follows:

	<u>Year One</u>	<u>Year Three</u>
Medicaid Fee-For-Service	4%	4%
Medicaid Managed Care	23%	23%
Medicare Fee-For-Service	15%	15%
Medicare Managed Care	15%	15%
Commercial Managed Care	33%	33%
Private Pay	11%	11%
Charity Care	2%	2%

#### Capability and Feasibility

Total project cost of \$444,904,571 includes the cost of the fit out space and the shell space. The project cost is broken down as follows: \$417,030,348 for Article 28 space and \$27,874,323 for non-Article 28 space. Financing for the Article 28 component is as follows: Equity of \$89,511,989 and \$327,518,359 Bond Financing at 4.34% interest rate for a 30-year term. The applicant submitted a letter of interest from Goldman, Sachs & Co. to underwrite the Bond Financing, which states that NYM currently has a Bond rating of Baa1 and A- from Moody's Investors Services and Fitch Ratings, respectively. The applicant will provide equity to meet the total project cost for the Non-Article 28 space.

Working capital requirements are estimated at \$28,465,883 based on two months of third year expenses. The applicant will fund working capital from operations. BFA Attachment A is New York Methodist Hospital's 2014 certified and internal financial statements as of November 30, 2015, which indicates the availability of sufficient funds for the equity contribution for the total project cost and the working capital requirements.

The submitted budget indicates an incremental excess of expenses over revenues of \$34,648,829 and \$31,379,434 during the first and third years, respectively. The applicant has submitted a letter of interest stating that the hospital will absorb the incremental losses. Revenues are based on the hospital's current reimbursement rates. The submitted budget appears reasonable.

As shown on BFA Attachment A, the entity had a positive working capital position and a positive net asset position for the period. Also, the entity achieved income from operations for the period shown.

BFA Attachment B is the 2013 and 2014 certified financial statements of New York Methodist Hospital. As shown, the entity had an average positive working capital position and an average positive net asset position for the period. Also, the entity achieved an average excess of revenues over expenses of \$92,830,500 from 2013 through 2014.

Subject to the noted contingency, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

**From a financial perspective, contingent approval is recommended.**

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## Attachments

BFA Attachment A	Financial Summary- November 30, 2015 internal financial statements and the 2014 certified financial statements of New York Methodist Hospital
BFA Attachment B	Financial Summary- 2013 and 2014 certified financial statements of New York Methodist Hospital



Project # 152138-C
St Marys Hospital for Children Inc

Program: Residential Health Care Facility
Purpose: Construction

County: Queens
Acknowledged: September 1, 2015

Executive Summary

Description

St. Mary's Hospital for Children, Inc. (St. Mary's) is a not-for-profit, Article 28 pediatric residential health care facility (RHCF) located at 29-01 216th Street, Bayside (Queens County), currently certified for 95 beds and a two-bed respite service. The facility is requesting approval to increase their pediatric bed capacity by 29 net new beds, convert 13 specialty pediatric RHCF beds to general purpose pediatric RHCF beds and decertify respite services. Upon completion of this project, the final bed count will be 124 pediatric RHCF beds. The facility also operates a 31-slot pediatric day health care program at the same location.

The proposed bed increase will be accomplished as follows:

- Six single-bedded rooms located in the new building on the St. Mary's campus will be converted to six double-bedded rooms, with minimal renovations required.
• The two single-bedded respite beds, also located in the new facility, will be converted to two pediatric RHCF beds.
• Four Coma Recovery and Nine Traumatic Brain Injury specialty-designated beds will be converted to 13 generic pediatric beds.
• The remaining 21 new pediatric beds will be housed in a unit to be constructed on the 2nd floor of the former St. Mary's residence building, which is connected to the new facility. The space is currently being used as administrative office and conference room space.

These operations will be relocated prior to the project's construction start date.

Although St. Mary's has a traumatic brain injury (TBI) and coma recovery program, there is no specialty reimbursement rate, thus no need for separate designation. After conversion to general purpose pediatric RHCF beds, the facility will continue to care for coma recovery and TBI residents.

St. Mary's Healthcare System for Children, Inc. (St. Mary's Healthcare System) is the sole corporate member of St. Mary's Hospital for Children, Inc.

OPCHSM Recommendation
Contingent Approval

Need Summary

The facility is requesting approval to increase their certified bed capacity by 29 beds. St. Mary's occupancy from 2011-2014 was 100.0%, 95.5%, 99.5%, and 98.9%, respectively. Current occupancy for this facility as of April 13, 2016 is 98.9%.

Program Summary

The renovated space will be equivalent to the current RHCF space. The additional beds will have the same staffing ratios, programs, and access to the same enriched services as the existing beds.

### Financial Summary

Total project cost of \$15,092,197 will be met through fundraising in the amount of \$2,130,049, two NYC Funding grants for capital equipment for a total of \$1,643,000, and a bank loan for \$11,319,148 at an interest rate of 4.25% for a ten-year term and 25-year amortization period.

Revenues	\$84,532,247
Expenses	<u>\$84,434,244</u>
Gain/(Loss)	\$98,003

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission and approval of the program to serve ventilator dependent children in the proposed beds. [LTC]
3. Submission of and programmatic review and approval of the final floor plans. [LTC]
4. Submission of an executed permanent mortgage for the project provided from a recognized lending institution at an interest rate acceptable to the Department of Health. Included with the submission must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. (BFA)
5. Submission of the FY 2015 and FY 2016 New York City Funding grant award approval letters to be used as a source of financing, acceptable to the Department of Health. (BFA)
6. Submission of a letter of credit acceptable to the Department of Health, documenting receipt of and conversion of pledges, to be submitted either within 15 months from date of approval or before approval to start construction, whichever is earlier. (BFA)
7. Submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-04.

**Approval conditional upon:**

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Adherence to standards put forth by the Department regarding services to ventilator dependent children. [LTC]
3. The effective date for the certification of the additional beds will be determined by the Metropolitan Area Regional Office. [LTC]
4. The submission of Final Construction Documents, signed and sealed by the project architect, as described in BAEFP Drawing Submission Guidelines DSG-05, prior to the applicant's start of construction. (AER)
5. Construction must start on or before August 1, 2016 and construction must be completed by July 31, 2017, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the start date this shall constitute abandonment of the approval. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. [AER]

Council Action Date

**June 9, 2016**

# Need Analysis

## Background

St. Mary's Hospital for Children (St. Mary's) is an existing 95-bed Article 28 residential health care facility (RHCF), located at 29-01 216th Street, Bayside, 11360, in Queens County. St. Mary's seeks approval to increase the certified bed capacity from 95 pediatric RHCF beds plus a two-bed respite service to 124 pediatric RHCF beds with no respite services.

St. Mary's is the only New York City-based, free-standing pediatric nursing facility serving the general pediatric population. St. Mary's provides intensive rehabilitation, specialized care and education to children with special needs and life-limiting conditions. St. Mary's Healthcare System operates various long-term and short-term home and community programs, a licensed home care services agency, a certified home health agency, a specialized AIDS home care program, and comprehensive case-management through Care At Home and Medicaid Service Coordination. Additional services include Pediatric Day Health Care Program (a New York State-certified Adult Day Health Care Program for pediatric patients), Center for Pediatric Feeding Disorders, St. Mary's Early Education Program, and St. Mary's Kids at Roslyn, a therapy center and sensory integration facility.

St. Mary's has formally partnered with ten Performing Provider Systems (PPSs) and submitted a Capital Restructuring Financing Program (CRFP) application through its partnership with New York Hospital Queens PPS to request support for this project.

## Project Proposal

The proposed project has the following components:

### Phase One:

- Conversion of six single-bedded rooms in the new building on the St. Mary's campus into double-bedded rooms; and
- Conversion of two single-bedded respite beds (not counted in current certified capacity) in the new building on the St. Mary's campus to certified pediatric RHCF beds and will remain in place; and
- Conversion of four Coma Recover and nine TBI specialty-designation beds to 13 generic pediatric beds.

### Phase Two:

- 21 beds will be constructed in a state-of-the-art unit within the connected building that once served as the residential area of St. Mary's before the construction of the new building. The 21-bed unit will be located on the 2<sup>nd</sup> floor in space currently occupied by administration and the conference center. A separate construction notice will be submitted to DOH to relocate the administrative suite from the 2<sup>nd</sup> floor to the 4<sup>th</sup> floor and relocate the conference center to adjacent space on the 2<sup>nd</sup> floor.

**Table 1: Proposed Bed Changes**

<b>Bed Type</b>	<b>Current</b>	<b>Proposed</b>	<b>Upon Completion</b>
RHCF (Pediatric)	82	+42	124
Coma Recovery	4	-4	0
Traumatic Brain Injury	9	-9	0
<b>Total Beds</b>	<b>95</b>	<b>+29</b>	<b>124</b>

The pediatric residents who will be admitted to the new, 21-bed unit are expected to include both short-term and long-stay residents. Approximately 40% of St. Mary's residents are short-term residents while the remaining 60% are long-stay residents. The approval of this additional capacity will help St. Mary's deal more readily with the constant struggle to balance the placement of hospital patients with long-term care needs with placement of patients, usually sought by home health agencies and families, with short-term care needs. The current situation leads to a considerable waiting list.

The proposed 21-bed unit in the original St. Mary's building will be constructed to allow service to ventilator-dependent children in any of the new beds, as is the case in the existing and proposed beds in the new building. The children admitted to the facility are becoming more medically complex, and a larger percentage are requiring some type of respiratory assistance upon admission. An analysis of admissions to St. Mary's, based upon primary diagnosis, shows that in 2013, 47.1% of admitted patients had conditions that likely required some level of respiratory assistance. By 2014, this percentage grew to 67.9%, and indications are that this percentage was even greater in 2015. Although St. Mary's will not be seeking to certify a discrete ventilator-dependent unit through this project, the facility already cares for a large number of ventilator-dependent, medically complex children (approximately 30%). The facility must currently turn away two to three ventilator-dependent children each week, many of whom are referred to New Jersey facilities due to lack of capacity in New York City.

#### Analysis

At the July 2014 meeting of the Committee on Establishment and Project Review of the Public Health and Health Planning Council (PHHPC), three projects were approved to add pediatric RHCF beds in Westchester County. While the pediatric RHCFs in Westchester County draw residents from a wide geographic area, there appears to be a need for additional pediatric beds in the southern part of New York State, particularly in Queens and Kings Counties and Long Island. The following table demonstrates the current geographic distribution of pediatric RHCF beds:

**Table 2: Statewide Pediatric Facilities**

Name of Facility	Certified Beds	Additional Beds Approved	Vent Beds	County
Sunshine Children's Home	54	68		Westchester
Elizabeth Seton Pediatric Center	136	32		Westchester
Blythedale Children's Hospital	24	24		Westchester
St. Margaret's Center <sup>1</sup>	58		6	Albany
Pathways Nursing & Rehab Ctr	36			Schenectady
Highpointe on Michigan HCF	13		7	Erie
Monroe Community Hospital	10		5	Monroe
Rutland Nursing Home	32			Kings
Coler Nursing Facility <sup>2</sup>	25			New York
St. Mary's Hospital for Children	95			Queens
<b>Total</b>	<b>611</b>	<b>124</b>	<b>18</b>	

<sup>1</sup>Under CON 141219, St. Margaret's was approved to convert 20 pediatric RHCF beds to 20 pediatric ventilator-dependent beds. This will not change the Center's pediatric capacity of 74 beds.

<sup>2</sup>Coler relocated in 2013, per CON 102253, and indicates it is not accepting pediatric patients in its new location.

Note 1: Avalon Gardens Rehab & Health Center (Suffolk) has temporary approval for 36 pediatric RHCF beds.

Note 2: Table does not include 21 specialty pediatric AIDS RHCF beds operated at Incarnation Children's Center in Manhattan.

St. Mary's has experienced consistently high occupancy over the past several years. The facility currently has a wait list of about 67 children, with approximately 85% located in Kings, Queens, and Long Island areas. St. Mary's, is the closest pediatric facility to these children, which is a convenience to their families. The wait list provided by St. Mary's includes about 35 children who do not appear on any other pediatric facilities' wait list. This unduplicated wait list includes a few of out-of-state residents that would return to New York if beds were available at St. Mary's.

Table 3 below shows the New York State 2015 hospital discharges for pediatric patients to a nursing home between the ages of Newborn and 21.

**Table 3: 2012-2015 Pediatric Discharges from all New York State Hospitals to RHCs**

Age Group	2012 Patients	2013 Patients	2014 Patients	2015 Patients
Newborn	27	47	36	31
00 -> 02	221	195	190	165
03 -> 05	42	72	81	67
06 -> 14	187	193	160	163
15 -> 19	172	200	216	206
20 -> 21	167	147	109	122
<b>Total</b>	<b>816</b>	<b>854</b>	<b>792</b>	<b>754</b>

Source: SPARCS, 2016

Focusing specifically on St. Mary's geographic region, and taking into account location of the remaining pediatric RHCs, Table 4 below shows a separation of discharged patients statewide between downstate (NYC Region, Long Island Region, and Westchester County) hospitals and hospitals in the rest of the State during 2012-2015.

**Table 4: 2012 - 2015 Downstate vs. Rest of State Hospital Discharges to RHCs**

Ages 0-21	2012 Patients	2013 Patients	2014 Patients	2015 Patients
Downstate	582	612	545	464
Rest of State	234	242	247	290
<b>Total</b>	<b>816</b>	<b>854</b>	<b>792</b>	<b>754</b>

Source: SPARCS, 2016

Table 5 shows the 2015 discharges of patients from 29 of the 34 hospitals in the New York City, Long Island, and Westchester County area with NICU/PICU/Pediatric units. The data was compiled with the cooperation of the listed facilities.

**Table 5: 2015 Discharges - Hospital Pediatric Patients in NYC & Long Island Regions, and Westchester County**

Hospital <sup>1</sup>	2015 Discharges To					
	Downstate SNFs <sup>2</sup>	Blythedale	Hospitals	RHCs	Out of State RHCs/ Hospital	Other Facility Type (excl. home)
Bellevue Hospital Center	2	6	0	0	0	0
Brookdale Hospital Medical Center	0	1	42	1	0	2
Brooklyn Hospital - Downtown Campus	8	9	0	0	0	0
Elmhurst Hospital	3	2	2	0	0	1
Flushing Hospital	1	0	0	0	0	0
Good Samaritan Hospital Medical Center	0	0	3	0	0	0
Harlem Hospital	1	2	0	0	0	0
Jacobi Medical Center	0	0	0	0	0	0
Jamaica Hospital Medical Center	0	0	0	0	0	0
Kings County Hospital Center	1	0	0	0	0	24
Lenox Hill Hospital	0	2	0	0	0	0
Long Island Jewish Medical Center <sup>3</sup>	69	57	51	17	17	34
Maimonides Medical Center	6	9	9	0	1	0
Montefiore Medical Center - 3 Campuses	20	85	12	0	5	0
Mount Sinai Beth Israel	4	5	0	0	0	0
Mount Sinai Hospital	0	0	0	0	0	0

Hospital <sup>1</sup>	2015 Discharges To					
	Downstate SNFs <sup>2</sup>	Blythedale	Hospitals	RHCFs	Out of State RHCFs/ Hospital	Other Facility Type (excl. home)
Nassau University Medical Center	0	0	2	0	0	0
New York Methodist Hospital	0	0	0	0	0	0
New York Presbyterian - Columbia	59	43	44	42	41	59
New York Presbyterian - Weill Cornell	64	15	16	14	14	17
NYU Medical Center	11	7	23	1	0	0
North Shore University Hospital	2	5	0	0	0	0
Northern Westchester Hospital	0	0	0	0	0	0
Queens Hospital Center	0	0	0	0	0	0
Richmond University Medical Center	0	0	0	0	0	0
Staten Island University Hospital - North	0	0	0	0	0	0
University Hospital of Brooklyn	5	0	0	5	0	0
University Hospital Stony Brook	44	1	20	0	1	11
Winthrop-University Hospital	1	0	5	0	0	0
<b>Total</b>	<b>301</b>	<b>249</b>	<b>229</b>	<b>80</b>	<b>79</b>	<b>148</b>

<sup>1</sup>Hospitals that did not respond: Bronx-Lebanon Hospital Center, Lincoln Medical & Mental Health Center, North Central Bronx Hospital, St. Francis Hospital, Westchester Medical Center

<sup>2</sup>St. Mary's, Sunshine Children's Home, Elizabeth Seton Pediatric Center, or Avalon Gardens

<sup>3</sup>Long Island Jewish Medical Center did not provide specific information as to where patients were discharged. Therefore, the data was pro-rated across categories.

Of the 301 discharges to downstate pediatric facilities, 115 were to St. Mary's<sup>1</sup>. The hospitals were asked how many pediatric patients were currently in their facility and of that number, how many were awaiting placement to a pediatric RHCF facility or a post-acute care facility. At the time of the request, 32 children were awaiting placement to a pediatric RHCF facility or post-acute care facility.

Elizabeth Seton and Sunshine Children's Home reported that the average age of their residents is approximately nine years old, and the average length of stay is approximately three years. For St. Mary's, it is most representative to consider two distinct sub-sets, with: short-term residents' average length of stay in 2015 at 63 days, and long-term residents' average length of stay in 2015 at approximately seven years. A conservative model based on historical data from 2011 - 2015 from St. Mary's cost reports and the Minimum Data Set (MDS) supports a sustained need for additional beds. When considering discharge and admissions numbers and average length of stay (ALOS), the result shows a perpetual need without additional factors, such as repatriation or the afore-detailed hospital discharge numbers, being considered. St. Mary's added capacity will allow them the flexibility to adjust the mix between long and short term patients to further pare down its waiting list.

Finally, according to Medicaid Salient data, there were 62 pediatric residents from the downstate region in out-of-state facilities in 2015. Therefore, although not the primary impetus for this project, approval of this application will support the Medicaid Redesign Team's (MRT) effort, including under MRT Goal #68, to repatriate beneficiaries from out-of-state nursing facilities, and to prevent such placements in the future.

#### Conclusion

Based on analysis of hospital discharge data, waiting lists, and out-of-state placements, and the consideration that approval of this CON application is not expected to negatively impact the three pediatric facilities in Westchester County for which the 124 pediatric beds were previously approved, approval of the beds is recommended.

#### Recommendation

**From a need perspective, approval is recommended.**

<sup>1</sup> The 115 discharges to St. Mary's is out of 232 patient discharges with specific facility data. The 232 is derived by subtracting LIJ's Discharges to Downstate SNFs number from the column total.

## Program Analysis

### Facility Information

	<b>Existing</b>	<b>Proposed</b>
<b>Facility Name</b>	St Mary's Hospital for Children Inc.	Same
<b>Address</b>	29-01 216 Street Bayside, NY 11360	Same
<b>RHCF Capacity</b>	82 Pediatric RHCF 9 Pediatric TBI 4 Pediatric Coma Recovery 95 Total Pediatric Beds +2 Pediatric Respite Beds	124 Pediatric RHCF 0 Pediatric TBI 0 Pediatric Coma Recovery 124 Total Pediatric Beds +0 Pediatric Respite Beds
<b>ADHCP Capacity</b>	31	Same
<b>Type Of Operator</b>	Corporation	Same
<b>Class Of Operator</b>	Voluntary/ Not for Profit	Same
<b>Operator</b>	St Mary's Hospital for Children Inc  <u>Active Parent/Co-Operator</u> St. Mary's Healthcare System for Children, Inc.	Same

### Program Review

St. Mary's Hospital for Children (St. Mary's) is a 95 bed pediatric residential health care facility located in Bayside, Queens. St. Mary's currently serves both long term and short term pediatric RHCF residents. In 2012 St. Mary's built a state-of-the art replacement facility which fostered the development of a program serving high acuity children who previously required care in a hospital. The existing nursing home building, built in the 1950s, was converted into administrative offices when the new adjoining facility went on-line. St. Mary's also operates a Special Needs Certified Home Health Agency (CHHA) and Licensed Home Care Services Agency (LHCSA). The CHHA and LHCSA work with the nursing home to place children into the community once it is clinically appropriate to do so.

St. Mary's Early Education School provides a pre-school program to children aged 3-6, and PS 23Q, located on campus, offers educational services in grades K-12. Both programs provide classroom services as well as customized Specialized Education Itinerant Teacher (SEIT) services for residents who cannot attend the classroom.

St. Mary's is currently licensed for 95 total pediatric RHCF beds and a two-bed respite service. It is currently licensed for specialized pediatric beds, TBI (9 beds) and Coma (4 beds), within its 95 total pediatric beds. Approximately ten years ago St. Mary's modified its program to be able to serve TBI and Coma Recovery residents throughout the replacement facility without having to operate specialized beds within physical space dedicated to these residents. Children are now cohorted by age and sex instead of by specialized treatment needs. This change in program eliminated the need to have specialized rates to pay for TBI and Coma Recovery in addition to the pediatric RHCF rate. Through this application St. Mary's is requesting to convert the designation for the TBI and Coma Recovery beds to generic pediatric RHCF beds. This change will not increase the overall number of children served by St. Mary's and the RHCF will continue to serve children who require TBI and Coma Recovery services.

Through this application St. Mary's is requesting to increase its certified generic pediatric RHCF beds from 82 to 124. It requests to accomplish this through the following actions:

- Convert the nine pediatric TBI and four Coma Recovery beds to thirteen generic pediatric RHCF beds
- Convert six single-bedded rooms in the current facility to double-bedded rooms
- Add two beds by utilizing the two beds used for respite and decertifying respite services

- Add 21 pediatric RHCf beds by renovating space in the vacated RHCf that is currently being used as administrative space. This space is on the same campus as the existing RHCf program and adjoins the existing RHCf building

St. Mary's intends to operate the additional beds with the same program and staffing ratios that are in place at the existing facility. St. Mary's has transitioned from a long term care facility to a licensed RHCf that specializes in the treatment of children with complex medical needs who require shorter term rehabilitation before placement back into the community. The additional beds will allow St. Mary's to serve either the long term pediatric RHCf population or the shorter term rehabilitation pediatric population. This flexibility can be a valuable resource to the State should the demand for pediatric skilled nursing services change over time.

#### Physical Environment

The conversion of TBI, Coma Recovery and respite beds will not result in a change in physical environment. The two respite beds are currently single bedded rooms on a residential unit and will remain as single bedded rooms that are comparable to the size of other resident rooms on the unit. The respite rooms are adjacent to one another and share a common toilet and bath.

The conversion of six single bedded rooms to double bedded rooms will occur with one room converted on Floors 1 and 2 and two rooms on Floors 3 and 4. Each room converted has adequate space to accommodate the additional bed and has its own toilet and bath. The facility will remain in compliance with the requirement for 10% single bedded rooms after the conversions occur in conjunction with the request for 124 certified beds.

The 21 additional beds will be added by creating a new unit in space that was previously certified as pediatric RHCf space prior to the construction of the existing pediatric RHCf space. St. Mary's will conduct construction to bring this unit up to current requirements and create an environment that is equivalent to the current RHCf space. The unit will be located on the second floor in a building that is adjacent and physically connected to the current RHCf. The building shares a common lobby and main entrance with the current RHCf. Access to the second floor unit will be via a hospital sized elevator and through a corridor with exterior views. The unit will be secure with access only through a secure card reader from the outside or by staff from the inside.

The unit itself is linear with double loaded corridors. In order to minimize the institutional feel of the unit the center of the unit was opened up to create a communication center, nourishment station, dining area and recreational area. This open central core creates an environment that is similar to the great room that exists in the current RHCf pediatric units. St. Mary's will also arrange the unit so that single bedded rooms are on one side and double bedded rooms on the other. Resident room doors for each room are staggered so that for the most part they will not be directly across from each other. Each wing of the unit has "perch space" that allows children to congregate outside of their rooms. The unit contains a large multi-purpose room that can be used by residents in addition to the common area in the central core. The unit also contains a large storage room and an exam room. These rooms are located at the end of the corridor to minimize disruptions to the resident rooms.

The rooms in general will operate with the same amenities and clinical capability/staffing ratios as the existing RHCf beds. The eight double bedded rooms are approximately 350 square feet with a proposed toe to toe placement of resident beds. While the placement of the beds is not optimal, the size of the double bedded rooms are equitable to the double bedded rooms in the current RHCf building. The five single bedded rooms are just under 200 square feet. One of the single bedded rooms has its own toilet and shower while other single rooms share a toilet and shower with another single bedded room. All resident rooms will have piped-in medical gases at the head of the each bed and piped-in medical gas connections will be available in the main dining and recreation area on the unit.

The proximity of the children in the new unit to the services at St. Mary's will be no different than the children in the existing RHCf units. As with the existing units, off-unit therapies will be a short elevator ride from the unit. Ground floor recreational areas at the existing RHCf building are also in close proximity to the new unit. In some cases, such as school services, the new unit will actually be closer to

support services than the existing pediatric units. It is the full intent of St. Mary's to operate this unit as a fully integrated part of the existing campus and the location and layout of the unit appears to support that they will be able to do so in practice.

#### Compliance & Quality Review

St. Mary's Hospital for Children is currently in substantial compliance with all applicable codes, rules and regulations.

Provider Name	Overall	Health Inspection	MDS Quality Measures
ST MARYS HOSPITAL FOR CHILDREN INC	*****	*****	*****

*Above ratings are based on CMS Provider Rating dated 3/1/2016*

#### Conclusion

St. Mary's Hospital for Children has the flexibility to serve a wide array of children in need of skilled nursing care. Their program focuses on rehabilitating children and, when possible, using other elements of its care system to aide in returning children to the community. Its ability to serve children with complex medical needs, including ventilator care, make a compelling case for allowing expansion of the existing program. The 29 additional pediatric beds will have the flexibility to match an increase in demand for children requiring complex medical services. St. Mary's has committed to rehabilitating the to-be-renovated space in a way that will make it equitable to the space in the current RHCF. The additional beds will have the same staffing ratios, programs, and access to the same enriched services as the existing beds.

#### Recommendation

**From a programmatic perspective, contingent approval is recommended.**

## Financial Analysis

#### Total Project Cost and Financing

Total project cost is estimated at \$15,092,197, broken down as follows:

Renovation & Demolition	\$6,766,923
Temporary Utilities	\$64,602
Asbestos Abatement or Removal	\$543,456
Design Contingency	\$676,693
Construction Contingency	\$676,693
Planning Consultant Fees	\$244,410
Architect/Engineering Fees	\$879,875
Construction Manager Fees	\$586,584
Other Fees	\$484,515
Movable Equipment	\$2,558,913
Telecommunications	\$1,083,936
Financing Costs	\$145,665
Interim Interest Expense	\$295,390
Application Fees	\$2,000
Additional Processing Fees	<u>\$82,542</u>
Total Project Cost	\$15,092,197

Project costs are based on a construction start date of August 1, 2016, and a 12-month construction period.

The applicant's financing plan appears as follows:

Fundraising	\$2,130,049
NYC Funding grant awards for capital equipment	1,643,000
Bank Loan (4.25% interest, ten-year term, 25-year amortization)	<u>\$11,319,148</u>
Total	\$15,092,197

The equity requirement will be covered through a fundraising campaign and FY 2015 and FY 2016 NYC Funding grants. The applicant has started a fundraising campaign and received draft grant award letters in support of their required equity contributions. Roosevelt & Cross Inc. has provided a letter of interest for the loan at the above stated terms. It is noted that the applicant has filed a Capital Restructuring Finance Program (CRFP) grant application with the Department related to this project and will revise their financing proposal to reflect any CRFP funds awarded.

#### Operating Budget

The applicant has provided an operating budget for the Current Year (2014) and Year One, as summarized below:

<b>Inpatient</b>	<u>Current Year (2014)</u>		<u>Year One</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<b>Revenues</b>				
Medicaid FFS	\$1,682.90	44,610,359	\$1,573.29	\$54,214,054
Medicaid MC	\$1,736.09	\$11,508,535	\$1,626.02	\$13,616,251
Commercial FFS	\$913.73	\$1,048,054	\$913.73	\$1,048,054
Private Pay	\$2,123.08	\$27,600	\$2,123.08	\$27,600
Other Operating Revenue		5,190,153		\$5,190,153
Non-Operating Revenue		<u>\$195,021</u>		<u>\$195,021</u>
Total		\$62,579,722		\$74,291,133
<b>Expenses</b>				
Operating	\$1,419.81	\$48,695,077	\$1334.60	\$58,712,914
Capital	<u>\$389.65</u>	<u>13,363,864</u>	<u>\$336.00</u>	<u>\$14,781,680</u>
Total	\$1,809.46	\$62,058,941	\$1,670.60	\$73,494,594
Net Income/ (Loss) Inpt.		\$520,781		\$796,539
<b>Outpatient</b>				
<b>Revenues</b>				
Medicaid FFS	\$741.46	<u>\$10,241,114</u>	\$741.46	<u>\$10,241,114</u>
Total		\$10,241,114		\$10,241,114
<b>Expenses</b>				
Operating	\$771.58	\$10,657,013	\$771.58	\$10,657,013
Capital	<u>\$20.46</u>	<u>\$282,637</u>	<u>\$20.46</u>	<u>\$282,637</u>
Total	\$792.04	\$10,939,650	\$792.04	\$10,939,650
Net Income/(Loss) Outpt.		(\$698,536)		(\$698,536)
Net Income/(Loss) Total		<u>(\$177,755)</u>		<u>\$98,003</u>
Utilization - Patient Days		34,297		43,993
Occupancy % - Pt Days		98.91%		97.20%
Utilization - Visits		13,812		13,812

The following is noted with respect to the submitted budget:

- Revenue assumptions are based on the facility's current Medicaid of rate for pediatric inpatient and outpatient day care services.

- Expense assumptions are based on the operator’s historical experience, plus the projected increased staffing and additional capital costs (equipment and telecommunications) associated with the new beds.
- Utilization assumptions are based on the facility’s list of children waiting to be placed in St. Mary’s facility. This addition will bring the overall occupancy rate for the facility down to 97.2%, which is in line with the Department’s planning guideline of 97% occupancy for the planning region.
- Outpatient utilization by payor source is 100% Medicaid Fee-For Service.
- Inpatient utilization by payor source for the Current Year and Year One is shown below:

	<u>Current Year</u>	<u>Year One</u>
Medicaid Fee-For-Service	77.29%	78.33%
Medicaid Managed Care	19.33%	19.03%
Commercial Fee-For-Service	3.34%	2.61%
Private Pay	.04%	.03%

The budget appears reasonable.

#### Capability and Feasibility

Project costs of \$15,092,197 will be met via equity of \$3,773,049 and a bank loan for \$11,319,148 at the above stated terms. The equity requirement associated with the project cost will be covered by the fundraising campaign and the NYC Funding grants.

Working capital requirements are estimated at \$1,905,942 based on two months of Year One incremental expenses, which will be satisfied from the facility’s operations. BFA Attachment A is the 2013-2014 certified and internal financial statements as of December 31, 2015, for St. Mary’s Hospital for Children, Inc. and Foundation, which shows the entity has sufficient resources to cover the working capital equity requirements for this project. BFA Attachment B is the 2013-2014 certified and internal financial statements as of December 31, 2015, for St. Mary’s Healthcare System for Children, Inc. (Parent Entity). As shown, the parent entity has sufficient resources to cover any additional shortfalls.

The applicant’s revenue assumptions are based on the historical rate data of the facility. The majority of the pediatric population to be served by the facility is expected to be exempt from value based reimbursement. A transition of nursing home (NH) residents to Medicaid managed care is being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A Department policy, as described in the “Transition of Nursing Home Benefit and Population into Managed Care Policy Paper,” provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing Medicaid NH revenues through the transition period.

BFA Attachment A, the 2013-2014 certified and year ending 2015 internal financial statements for St. Mary’s Hospital For Children, Inc., indicate the facility generated an average negative working capital position, a positive net asset positions, and an average net loss of \$10,094,237 for the period. The negative working capital was caused by the applicant reflecting items that are typically considered long term liabilities as current liabilities, including items such as accrued vacation, workers compensation reserves and third party payer liabilities. For 2014, the amount that was misclassified totaled \$6,368,168. If this had been classified correctly, the applicant would have had \$328,663 in positive working capital for 2014. The net loss in 2013 was caused by inefficiencies in home care and rehabilitation program operations, revenue cycle management processes, issues with operating expenses being too high, and an unprofitable Early Intervention program. In order to resolve these issues the facility did the following: restructured home care operations by implementing a new care delivery model, new technology, and reduced infrastructure to support a lower census; consolidated the centralized rehabilitation program to make coordination of services more efficient; closed the unprofitable Early Intervention program in May 2014; implemented expense reductions including corporate restructuring, workers compensation, health benefits, departmental reductions in staff and other expense savings initiatives; restricted the licensed home care program transferring of certain services to outside providers as of January 1, 2015; and

implemented improved revenue cycle management processes. The loss in 2015 was due to a significant shortfall in the projected philanthropy, due to the resignation of the vice president of the foundation and limited year end giving due to financial constraints of several of the foundation's board members.

BFA Attachment B is 2013-2014 certified and the year ending 2015 internal financial statements for St. Mary's Healthcare System for Children, Inc. The entity generated an average negative working capital position, a positive net asset positions, and an average net loss of \$5,476,426 for the period. The reasons for the negative working capital and the net loss are the same as above.

Subject to the noted contingency, the applicant has demonstrated the capability to proceed in a financially feasible.

Recommendation

**From a financial perspective, contingent approval is recommended.**

## Attachments

BFA Attachment A	2013-2014 certified and 1/1/2015-12/31/2015 internal financial statements for St. Mary's Hospital for Children, Inc.
BFA Attachment B	2013-2014 certified and 1/1/2015-12/31/2015 internal financial statements for St. Mary's Health Care System for Children, Inc.



**Project # 161077-E  
Woman's Christian Association**

**Program: Hospital  
Purpose: Establishment**

**County: Chautauqua  
Acknowledged: February 19, 2016**

**Executive Summary**

**Description**

UPMC Chautauqua Services, Inc. (UPMCCS), an existing corporation, requests approval to become the active parent and co-operator of The Women's Christian Association of Jamestown, NY d/b/a Women's Christian Association Hospital (WCA). WCA is a 317-bed, voluntary not-for-profit, Article 28 hospital located in Jamestown (Chautauqua County). The Hospital operates a 277-bed facility (main campus) located at 207 Foote Avenue, a 40-bed facility (psychiatric service) located at 61 Glasgow Avenue and three extension clinics sites. There will be no change in authorized services, the number or type of beds, or staffing as a result of approval of this project. In addition, there are no projected changes in the utilization, revenue or expenses of the hospital as a direct result of this project. Upon approval of this application, the entity will be renamed UPMC Chautauqua at WCA.

UPMCCS will be the sole member of the hospital. The sole member and passive parent of UPMCCS is UPMC Hamot (Hamot), a Pennsylvania not-for-profit corporation, which is a subsidiary of the University of Pittsburgh Medical Center (UPMC). Hamot operates a tertiary acute care hospital in Erie, Pennsylvania, which is located 50 miles west of WCA. The Hospital will enter into an administrative services agreement with UPMC.

As active parent and co-operator, UPMCCS will have the following rights, powers and authority with respect to WCA Hospital:

- Appointment or dismissal of hospital management level employees and medical staff;

- Approval of hospital operating and capital budgets;
- Adoption or approval of hospital operating policies and procedures;
- Approval of certificate of need applications filed by on or behalf of the hospital;
- Approval of hospital debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
- Approval of hospital contracts for management or for clinical services;
- Approval of settlements of administrative proceedings or litigation to which the hospital is a party, except approval of settlements or litigation that exceed insurance coverage or any applicable self-insurance funds.

The purpose of this transaction is to establish an integrated care network with the objective of improving quality, increasing access and lowering the costs of healthcare in the community served by WCA Hospital.

BFA Attachment A presents the organizational chart post-closing.

OPCHSM Recommendation  
Contingent Approval

#### Need Summary

This transition will help establish an integrated health system and is expected to improve the quality of care, access to care, and to lower costs. The facility will continue to serve the patients in Chautauqua County, but with a more streamlined approach.

There will not be any change in beds or services.

#### Program Summary

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

#### Financial Summary

There are no project costs associated with this application.

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of documentation of approval by the Office of Mental Health, acceptable to the Department. [PMU]
2. Submission of documentation of approval by the Office of Alcoholism and Substance Abuse Services, acceptable to the Department. [PMU]
3. Submission of an executed administrative services agreement, acceptable to the Department of Health. [BFA]
4. Submission of an executed Administrative Services Agreement, acceptable to the Department. [HSP]
5. Submission of a photocopy of the certificate of incorporation of UPMC Chautauqua Services, Inc., which is acceptable to the department. [CSL]
6. Submission of a photocopy of the by-laws of UPMC Chautauqua Services, Inc., which is acceptable to the department. [CSL]
7. Submission of a photocopy of the certificate of incorporation of UPMC Chautauqua at WCA, Inc., which is acceptable to the department. [CSL]
8. Submission of a photocopy of the by-laws of UPMC Chautauqua at WCA, Inc., which is acceptable to the department. [CSL]
9. Submission of a photocopy of the certificate of incorporation of WCA Group, Inc., which is acceptable to the department. [CSL]
10. Submission of a photocopy of the by-laws of WCA Group, Inc., which is acceptable to the department. [CSL]

**Approval conditional upon:**

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

**June 9, 2016**

## Need Analysis

### Background

Woman's Christian Association (207 Foote Av)		WCA-Jones (51 Glasgow Av)	
	Beds		Beds
Chemical Dependence Rehab	13	Psychiatric	40
Coronary Care	16		
Intensive Care	7		
Maternity	26		
Medical / Surgical	195		
Pediatric	10		
Physical Medicine and Rehab	10		
Total	277		

This approval will also strengthen the financial viability of the facility and increase recruitment opportunities to better provide healthcare services to the residents in the area.

### Conclusion

This project will allow the health system to operate in a more cost effective manner, provide a more streamlined approach to patient health, and offer better access to care.

### Recommendation

**From a need perspective, approval is recommended.**

## Program Analysis

### Project Proposal

UPMC Chautauqua Services, Inc. (UPMCCS) seeks approval to be established as the active parent and co-operator of The Woman's Christian Association of Jamestown, NY d/b/a WCA Hospital (WCA). WCA is an existing not-for-profit hospital located at 207 Foote Avenue in Jamestown (Chautauqua County) that offers a wide array of certified services at two inpatient sites and four extension clinics.

Approval of this application will give UPMCCS the ability to exercise the Article 28 active powers over the Hospital. UPMCCS will be the sole member of the Hospital. The sole member and passive parent of UPMCCS is UPMC Hamot (Hamot), a Pennsylvania not-for-profit corporation, which is located 50 miles due west of WCA and is a subsidiary of UPMC (University of Pittsburgh Medical Center). Hamot operates a tertiary acute care hospital in Erie, Pennsylvania. The Hospital will become a third-tier subsidiary of, and will enter into an Administrative Services Agreement with UPMC (a Pennsylvania not-for-profit corporation headquartered in Pittsburgh, Pennsylvania).

This proposal aims to preserve the continued operations of WCA as an economically viable hospital by allowing WCA to benefit from operating financially and administratively within the UPMC health system. UPMC seeks to closely align WCA and Hamot so they can achieve an integrated, coordinated and regional approach to delivering accessible and quality healthcare in their service areas.

There are no projected changes in staffing, authorized services, or the number or type of beds at either hospital as a result of the proposed change in governance structure. The Hospital will remain a separate not-for-profit corporation certified under Article 28, and will maintain a separate operating certificate following completion of the project. Upon approval, WCA Hospital will be renamed UPMC Chautauqua at WCA.

## Character and Competence

The proposed Directors of UPMC Chautauqua Services, Inc. and UPMC Chautauqua at WCA are:

<u>Name</u>	<u>Designee From</u>
Anna M. Dibble	WCA
William A. Geary, MD, PhD	WCA
Cristie L. Herbst	WCA
Brenda J. Ireland	WCA
Steven D. Kilburn	WCA
Michael P. Sullivan	WCA
Bradley N. Dinger	UPMCCS
Vincent J. Fiorenzo	UPMCCS
Camellia A. Herisko	UPMCCS
Edward T. Karlovich	UPMCCS
Mark H. Raimy	UPMCCS
David C. Russell	UPMCCS

All proposed board members are subject to a character and competence review. Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management, the Office of Professional Medical Conduct, and the Education Department databases as well as the US Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

Dr. Geary disclosed a pending malpractice case currently in discovery regarding a prostate biopsy diagnosis. Dr. Herisko disclosed that Western Psychiatric Institute and Clinic (WPIC) has been subject to civil and administrative actions in the normal course of its business as an acute care psychiatric hospital. Further, she disclosed that, in 2012, she testified as a witness in two matters. The first related to a grand jury investigation into the reporting practices of WPIC in cases involving alleged sexual assault by one patient on another. The second case involved the U.S. Department of Labor (Occupational Health and Safety Administration) regarding workplace violence and assaults by WPIC patients on staff. Both matters were concluded with no criminal charges or citations. Messrs. Fiorenzo and Raimy, disclosed that UPMC Hamot has been subject to civil and administrative actions in the normal course of its business as an acute care general hospital. In addition, in November 2010, the U.S. Department of Justice opened an investigation into numerous hospitals (to include UPMC Hamot), as to whether claims were submitted to Medicare for payment related to the implantation of implantable cardioverter defibrillators that were excluded from Medicare coverage. In December 2014, UPMC entered into a settlement agreement but did not admit to any liability and expressly denied the allegations.

Additionally, the staff from the Division of Certification & Surveillance reviewed the ten-year surveillance history of all associated facilities. Sources of information included the files, records, and reports found in the Department of Health. Included in the review were the results of any incident and/or complaint investigations, independent professional reviews, and/or comprehensive/focused inspections. The review found that any citations were properly corrected with appropriate remedial action.

## Recommendation

**From a programmatic perspective, contingent approval is recommended.**

## Financial Analysis

### Administrative Services Agreement

The applicant has submitted a draft administrative services agreement, which is summarized below:

Contractor:	UPMC
Facility:	UPMC Chautauqua Services
Services Provided:	UPMC will provide the following services: payroll, processing employees unemployment insurance premiums, disability premiums and workers compensation premiums, compiling and records billing, accounting and other medical data for billing purposes, compiling information and records to draw up purchase orders for procurement of materials and services, making payments to vendors and posting payment to status of accounts, general administrative duties, planning and executing a public relations program or corporate communications policy, gathering and reviewing information in accounting records for use in preparing financial statements, processing tax payments according to prescribed laws and regulations, overseeing audits conducted by tax authorities, compiling data to prepare budget and assumed contracts for management, provide staffing and recruiting services and provide information technology services.
Term:	1 year term with an automatic 1 year renewal term.
Fee:	The fee will be equal to the Contractors incurred expenses.

### Capability and Feasibility

There are no issues of capability or feasibility, as there are no project cost or budgets associated with this application.

BFA Attachment B is the certified financial statements of UPMC and Subsidiaries for the periods ending June 30, 2014, and June 30, 2015. As shown, the entity had an average negative working capital position, an average positive net asset position, and achieved an average after tax operating income of \$210,307,500 for the period two-year period ending June 30, 2015.

BFA Attachment C is the 2013 and 2014 certified financial statements of The Woman's Christian Association of Jamestown, NY. As shown, the entity had an average positive working capital position and an average positive net asset position from 2013 through 2014. Also, the entity incurred average operating losses of \$1,358,071 from 2013 through 2014. The applicant indicated that the losses were due to the following:

- The hospital is seeing an ongoing shift from inpatient admissions to outpatient observations. This creates financial challenges as patients continue to receive nursing care, ancillary testing and pharmaceuticals, while reimbursement is significantly less for observation than for inpatient care.
- WCA had an increase in the percentage of Medicaid beneficiaries and a decrease in the percent of patients with commercial insurance.
- The hospital also saw an increase in its bad debt and charity care. Some of this is related to high deductible plans being offered by employers, including WCA. In 2014, the increase was \$1.5 million over 2013.
- A large contributing factor was the hospital's implementation of its electronic health record. WCA used \$11 million in cash over a 36-month period to implement the HER system.

The hospital implemented the following initiatives to improve operations: hired a consultant to work with management to identify ways to increase revenues and reduce expenses, implemented staff reductions at both the management and staff levels, closely monitored supply costs, improved its accounts receivable collection, and reduced its length of stay.

BFA Attachment D is the October 31, 2015 internal financial statements of the Woman's Christian Association of Jamestown, NY. As shown, the entity had a positive working capital position and a positive net asset position for the period ending October 31, 2015. Also, the hospital incurred an operating loss of \$1,467,868 through October 31, 2015.

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

**From a financial perspective, contingent approval is recommended.**

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## Attachments

BFA Attachment A	Organizational Chart Post-Closing
BFA Attachment B	June 30, 2014 and June 30, 2015 certified financial statements of UPMC and Subsidiaries
BFA Attachment C	2013 and 2014 certified financial statements of Woman's Christian Association of Jamestown, NY.
BFA Attachment D	October 31, 2015 internal financial statements of Woman's Christian Association of Jamestown, NY.



**Project # 161083-E  
Gastroenterology Care, Inc**

**Program:** Diagnostic and Treatment Center    **County:** Kings  
**Purpose:** Establishment    **Acknowledged:** February 23, 2016

**Executive Summary**

**Description**

Gastroenterology Care, Inc. (the Center), an existing proprietary Article 28 diagnostic and treatment center (D&TC) located at 8622 Bay Parkway, Brooklyn (Kings County), is requesting indefinite life status. The D&TC is certified as a single specialty freestanding ambulatory surgery center (FASC) specializing in gastroenterology services. The Center obtained Public Health Council approval with a five-year limited life under CON 071061 and began operations effective March 17, 2011. The applicant submitted this application to the Department prior to the limited life expiration date (March 17, 2016). The FASC continues to operate under the original lease, which expires in July 2024. There will be no change in services provided.

The initial and current sole shareholder of Gastroenterology Care, Inc. is Alexander Brodsky, M.D., who is Board Certified in Gastroenterology.

**OPCHSM Recommendation  
Approval**

**Need Summary**

Data submission by the applicant, as a contingency of CON 071061, is completed. Based on CON 071061, Gastroenterology Care, Inc. projected 1,875 procedures in Year 1 (2011)

and 1,935 Year 3 (2013). Charity care was projected at two percent and Medicaid was projected at four percent. Based on the annual reports submitted by the applicant, the actual number of procedures was 205 in Year 1 and 3,771 in Year 3. Actual charity care in Year 3 (2013) was 2.1%, and Medicaid was 30.4%.

Upon approval of this project, the applicant projects the number of visits to be 3,845 in Years 1 and 3 with Medicaid at 35.5% and charity care at 1.6%. There will be no changes in services.

**Program Summary**

Based on the results of this review, a favorable recommendation can be made regarding the facility's current compliance pursuant to 2802-(3)(e) of the New York State Public Health Law.

**Financial Summary**

There are no project costs associated with this application. The operating budget is as follows:

Revenues	\$2,458,792
Expenses	<u>2,158,250</u>
Net	
Income	\$300,542

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval conditional upon:**

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval.  
[PMU]

Council Action Date

**June 9, 2016**

# Need Analysis

## Analysis

The primary service area is Kings County.

The table below provides information on projections and utilization for Year 1 (2011) and Year 3 (2013) based on CON 071061.

CON 071061 - Visits	Projections		Actual	
	Year 1	Year 3	Year 1	Year 3
Gastroenterology Care, Inc.				
Total	1,875	1,935	205	3,771

The table below provides Year 3 utilization (projections and actual) by payor under CON 071061; actual data for 2014; and projections for Years 1 and 3 following approval of this project.

Payor	CON 071061 Projected Year 3 (2013)	Actual Year 3 (2013)	Actual 2014	CON 161083 Projections Years 1 & 3
Commercial FFS/MC	60.0%	25.2%	24.2%	24.2%
Medicare FFS/MC	32.0%	35.9%	33.0%	33.0%
Medicaid FFS/MC	4.0%	30.4%	35.5%	35.5%
Charity Care	2.0%	2.1%	1.6%	1.6%
All Other	2.0%	6.4%	5.7%	5.7%
Total	100%	100%	100%	100%

Since the passage of the Affordable Care Act (ACA), access to healthcare coverage has improved in New York State, which means fewer people needing traditional charity care. As a reflection of the passage of the ACA, Gastroenterology Care, Inc. has seen a drop in charity care over the limited life period. During the limited life period, charity care has been 2.9% in 2011, 1.8% in 2012, 2.1% in 2013, 1.6% in 2014 and 0.9% in 2015. Conversely, there has been a significant, continual increase in Medicaid visits; 23.3% in 2011, 25.3% in 2012, 30.4% in 2013, 35.5% in 2014, and 43.8% in 2015.

In order to provide service to the underinsured the center has taken the following steps:

- Staff members, led by Dr. Brodsky, provide consultation at six (6) separate clinic locations in Brooklyn and Staten Island for the express purpose of providing free cancer screening and evaluations for patients of those clinics free of charge.
- Staff members provide free evaluations, Q&A and education on the importance and availability of screening colonoscopies, financial (payor) information, and assist patients in setting up formal screening appointments. The center estimates that over 250 patients have received free colorectal screenings through their outreach efforts.
- Dr. Brodsky provides educational information to potentially thousands of Russian-speaking residents of the five boroughs through television spots purchased on all six (6) Russian language television stations serving this area.

Gastroenterology Care, Inc. is committed to serving individuals needing care regardless of the source of payment or the ability to pay.

## Conclusion

Although Gastroenterology Care's charity care has declined slightly, this has occurred in the midst of a major decline in the number of uninsured in Kings County. Staff members of this center provide consultation at six separate clinics in Kings County. Moreover, Gastroenterology Care's volume of service to Medicaid clients has reached over 7 times the facility's original projections. These circumstances indicate a reasonable and sustained effort to provide services to the underserved in Kings county area, and indefinite life appears warranted.

## Recommendation

**From a need perspective, approval is recommended.**

## Program Analysis

### Program Proposal

Gastroenterology Care, Inc., an existing Article 28 diagnostic and treatment center that is certified as a single-specialty freestanding ambulatory surgical center (FASC) specializing in gastroenterology, located at 8622 Bay Parkway in Brooklyn (Kings County), is requesting permission to convert to indefinite life following a five year conditional, limited life approval (initially approved in CON #071061).

In keeping with the directives and conditions of its limited life approval, the Center submitted Annual Reports prepared by a third party to the Department for 2011 through 2015 in which the center experienced nearly 15,000 cases in that span. During that period, the Center surpassed by a substantial amount its original approved commitment to serve the underserved. The Center is proud of its record during its limited life and is committed to continuing to enhance the community's access to high-quality medical care in the future.

The Center is not proposing to add any services, expand or renovate the facility or change anything about the Center. Staffing is expected to remain at 12.0 FTEs and Alexander Brodsky, M.D., Ph.D. will continue to serve as the Center's Medical Director.

### Compliance with Applicable Codes, Rules and Regulations

The medical staff will continue to ensure that procedures performed at the facility conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The facility's admissions policy will include anti-discrimination regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, or source of payment. All procedures will be performed in accordance with all applicable federal and state codes, rules and regulations, including standards for credentialing, anesthesiology services, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

This facility has no outstanding Article 28 surveillance or enforcement actions and, based on the most recent surveillance information, is deemed to be currently operating in substantial compliance with all applicable State and Federal codes, rules and regulations. This determination was made based on a review of the files of the Department of Health, including all pertinent records and reports regarding the facility's enforcement history and the results of routine Article 28 surveys as well as investigations of reported incidents and complaint.

### Recommendation

**From a programmatic perspective, approval is recommended.**

## Financial Analysis

### Operating Budget

The applicant has submitted an operating budget, in 2016 dollars, for the current year (2014) and the first and third years subsequent to receiving indefinite life, as summarized below:

	<u>Current Year (2014)</u>	<u>Year One and Three</u>
<b>Revenues</b>		
Medicaid-FFS	\$113,795	\$113,795
Medicaid-MC	659,979	659,979
Medicare-FFS	363,665	363,665
Medicare-MC	63,523	63,523
Commercial-FFS	447,200	447,200
Commercial-MC	623,393	623,393
Private Pay / All Other	<u>187,237</u>	<u>187,237</u>
<b>Total Revenues</b>	<b>\$2,458,792</b>	<b>\$2,458,792</b>
<b>Expenses</b>		
Operating	\$1,907,164	\$1,907,164
Capital	<u>251,086</u>	<u>251,086</u>
<b>Total Expenses</b>	<b>\$2,158,250</b>	<b>\$2,158,250</b>
<b>Net Income or (Loss)</b>	<b><u>\$300,542</u></b>	<b><u>\$300,542</u></b>
Utilization (procedures)	3,845	3,845
Cost per Procedure	\$561.13	\$561.13

Revenue, expense and utilization assumptions for Years One and Three are projected based upon a continuation of the Center's current operations.

During the review process for this application, the applicant discovered that the statistics they reported to the Statewide Planning & Research Cooperative System (SPARCS) incorrectly classified procedures as "Self-Pay" due to a systems error. The applicant is in the process of correcting this error, and will continue to be in touch with the Department throughout this process. The Center has been compliant with their 2013 and 2014 AHCF cost report submissions to the Department, and with filing the Annual Reports (utilization statistics) prepared by a third party vendor for years 2011 through 2015.

### Capability and Feasibility

There are no project costs associated with this application.

Gastroenterology Care, Inc. projects an operating excess of \$300,542 in the first and third years, respectively. Revenues are based on current and projected federal and state governmental reimbursement methodologies, while commercial payers are based on experience. The budget appears reasonable.

BFA Attachments A and B are Gastroenterology Care, Inc.'s 2014 certified financial statements and their internal financial summary as of November 30, 2015, which shows the facility maintained positive working capital, positive equity, and positive net income for the periods shown.

The applicant has demonstrated the capability to proceed in a financially feasible manner.

### Recommendation

**From a financial perspective, approval is recommended.**

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## Attachments

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BFA Attachment A 2014 Certified Financial Statement for Gastroenterology Care, Inc.  
BFA Attachment B November 30, 2015 Internal Financial Summary for Gastroenterology Care, Inc.



Project # 161138-B  
JTL Consulting, LLC t/b/k/a  
Gastroenterology of Westchester, LLC

**Program:** Diagnostic and Treatment Center    **County:** Westchester  
**Purpose:** Establishment and Construction    **Acknowledged:** March 16, 2016

**Executive Summary**

**Description**

JTL Consulting, LLC (JTL), an existing New York limited liability company, requests approval to establish and construct an Article 28 diagnostic and treatment center (D&TC) to be certified as a freestanding ambulatory surgery center (FASC) specializing in gastroenterology services. The applicant will lease 4,812 square feet of an existing building located at 1086 North Broadway, Yonkers (Westchester County). The FASC will include two procedure rooms, a pre-operating area and two recovery bays, along with the requisite support areas. Upon approval, the name of the D&TC will be Gastroenterology of Westchester, LLC.

The sole member of JTL Consulting, LLC is Jose Lantin, M.D. Dr. Lantin, who is Board Certified in Internal Medicine and Gastroenterology, will be a practicing physician at the Center and will serve as Medical Director. Upon opening there will be one additional practicing physician, Dr. Frederick Fallick, who has no ownership interest in the FASC. The physicians currently perform gastroenterology procedures in an existing private, office-based practice within the proposed FASC's service area. Both physicians have provided letters of interest demonstrating their commitment to transfer 3,120 procedures, currently performed

in their private practice, to the Center in the first year of operation.

**OPCHSM Recommendation**

Contingent approval with an expiration of the operating certificate five years from the date of its issuance

**Need Summary**

3,120 procedures are projected for Year 1 with Medicaid at 25.0% and charity care at 2.0%.

**Program Summary**

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

**Financial Summary**

Total project costs of \$1,820,510 will be met through member's equity of \$182,051 and the remaining balance of \$1,638,459 to be financed via a bank loan for a ten-year term at 3.25% interest. The projected budget is:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,538,467	\$1,674,625
Expenses	<u>\$1,407,545</u>	<u>\$1,435,842</u>
Gain	\$130,922	\$238,783

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval with an expiration of the operating certificate five (5) years from the date of its issuance, contingent upon:**

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. A copy of the check must be uploaded into NYSE-CON upon mailing. [PMU]
2. Submission of an executed loan commitment, acceptable to the Department of Health. [BFA]
3. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
4. Submission of an executed building lease, acceptable to the Department of Health. [BFA]
5. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
6. Submission of a statement, acceptable to the Department, that the applicant will consider creating or entering into an integrated system of care that will reduce the fragmentation of the delivery system, provide coordinated care for patients, and reduce inappropriate utilization of services. The applicant will agree to submit a report to the Department beginning in the second year of operation and each year thereafter detailing these efforts and the results. [RNR]
7. Submission of a signed agreement with an outside, independent entity, acceptable to the Department, to provide annual reports to DOH following the completion of each full year of operation. Reports will be due within 60 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. Each report is for a full operational year and is not calendar year based. For example, if the Operating Certificate Effective Date is June 15, 2018, the first report is due to the Department no later than August 15, 2019. Reports must include:
  - a. Actual utilization including procedures;
  - b. Breakdown of visits by payor source;
  - c. Percentage of charity care provided by visits;
  - d. Number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
  - e. Number of emergency transfers to a hospital;
  - f. Number of nosocomial infections recorded;
  - g. A brief list of all efforts made to secure charity cases; and
  - h. A brief description of the progress of contract negotiations with Medicaid managed care plans.[RNR]
8. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
9. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-03 Outpatient Facilities. [AER]

10. Submission of a lease agreement between the applicant and the property owner, which is acceptable to the department. [CSL]
11. Submission of an operating agreement of Gastroenterology of Westchester, LLC which is acceptable to the department. [CSL]

**Approval conditional upon:**

1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. The submission of annual reports to the Department as prescribed by the related contingency, each year, for the duration of the limited life approval of the facility. [RNR]
3. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
4. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
5. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
6. The clinical space must be used exclusively for the approved purpose. [HSP]
7. Construction must start on or before October 1, 2016 and construction must be completed by February 1, 2017, presuming the Department has issued a letter deeming all contingencies have been satisfied prior to commencement. In accordance with 10 NYCRR Section 710.10(a), if construction is not started on or before the start date this shall constitute abandonment of the approval. It is the responsibility of the applicant to request prior approval for any changes to the start and completion dates. [AER]

Council Action Date

**June 9, 2016**

## Need Analysis

### Project Description

The applicant is seeking approval to establish and construct a freestanding ambulatory surgery center providing single specialty gastroenterology surgery services to be located at 1086 North Broadway, Yonkers, 10701, in Westchester County.

### Analysis

The service area consists of Westchester County. Westchester County has a total of seven freestanding ambulatory surgery centers: four multi-specialty ASC's and three single-specialty ASCs. The table below shows the number of patient visits at ambulatory surgery centers in Westchester County for 2013 and 2014.

ASC Type	Facility Name	Total Patients	
		2013	2014
Multi	The Rye ASC	4,251	4,046
Multi	The Ambulatory Surgery Center of Westchester	4,873	4,615
Single	Eye Surgery Center of Westchester	4,812	4,884
Multi	White Plains Ambulatory Surgery Center	1,323	938
Single	Hudson Valley Center for Digestive Health	2,478	2,769
Single	New York Endoscopy Center	1,556	1,763
Multi	Surgical Specialty Center of Westchester	2,451	2,571
Total		21,744	21,586

Source: SPARCS-2015

In Westchester County, the total number of patient visits was 21,744 in 2013 and 21,586 in 2014. For the single gastroenterology specialty ASC's, the number of patient visits was 4,034 in 2013 and 4,532 in 2014. This represents a 12.3% year-to-year increase in the number of patients served by gastroenterology specialty ASC's in Westchester County.

The population of Westchester County in 2010 was 949,113 with 403,129 individuals (43.3%) 45 years and over, which is the primary population group utilizing Gastroenterology services. Per PAD projection data from the Cornell Program on Applied Demographics, this population group (45 and over) is estimated to grow to 417,129 by 2025 and represent 43.1% of the projected population of 967,407.

The number of projected procedures is 3,120 in Year 1 and 3,408 in Year 3. These projections are based on the current experience of the participating surgeons. The table below shows the projected payor utilization for Years 1 and 3.

	Year 1 Volume	Year 1 %	Year 3 Volume	Year 3 %
Commercial Ins	1,030	33.0%	1,125	33.0%
Medicare	1,092	35.0%	1,193	35.0%
Medicaid	780	25.0%	852	25.0%
Private Pay	156	5.0%	170	5.0%
Charity Care	62	2.0%	68	2.0%
Total	3,120	100.0%	3,408	100.0%

### Underserved Populations

The center intends to obtain contracts with the following Medicaid Managed Care plans: MVP, Affinity, HIP Medicaid and Healthfirst.

The center will seek to partner with local community organizations and Federally Qualified Health Centers (FQHCs) that can refer qualified uninsured patients to the center. The center will reach out to two FQHC's: Mount Vernon Neighborhood Health Center and Hudson River Healthcare in order to identify and serve underinsured patients. Included with this application is a letter from Hudson River Healthcare expressing their interest in establishing a formal, written agreement to work collaboratively with the applicant to refer underserved patients to the center.

The applicant is committed to serving all persons in need without regard to ability to pay or source of payment.

### Conclusion

Approval of this project will bring office-based surgical procedures into an Article 28 ambulatory surgery center setting and will provide continued access to gastroenterology services for the communities of Westchester County.

### Recommendation

**From a need perspective, contingent approval for a limited period of five (5) years is recommended.**

## Program Analysis

### Project Proposal

JTL Consulting, LLC, an existing New York State limited liability company, seeks approval to establish and construct an Article 28 diagnostic and treatment center that will also be certified as a single-specialty (gastroenterology) freestanding ambulatory surgical center at 1086 North Broadway in Yonkers (Westchester County). This project effectively converts the participating physicians' private practice into a regulated Article 28 service. Upon approval, the center will be known as Gastroenterology of Westchester, LLC.

<b>Proposed Operator</b>	JTL Consulting, LLC
<b>To Be Known As</b>	Gastroenterology of Westchester, LLC
<b>Site Address</b>	1086 North Broadway Yonkers, NY 10707 (Westchester County)
<b>Surgical Specialties</b>	Single-Specialty: Gastroenterology
<b>Operating Rooms</b>	0
<b>Procedure Rooms</b>	2
<b>Hours of Operation</b>	Monday through Friday from 8:00 am to 5:00 pm (Expanded operating schedule and weekend and/or evening procedures will be available, if needed, to accommodate patient scheduling issues.)
<b>Staffing (1<sup>st</sup> Year / 3<sup>rd</sup> Year)</b>	8.0 FTEs / 8.0 FTEs
<b>Medical Director(s)</b>	Jose Lantin, M.D
<b>Emergency, In-Patient and Backup Support Services Agreement and Distance</b>	Expected to be provided by St. John's Riverside Hospital 0.3 miles / 1 minute
<b>On-call service</b>	Patients will be provided with a number for the facility's 24/7 on-call service.

### Character and Competence

The sole member of JTL Consulting, LLC is Jose Lantin, M.D.

Dr. Jose Lantin is a practicing physician who is board-certified in Internal Medicine and Gastroenterology with over 30 years of experience, the last 20 years of which as the medical director of an office-based surgery center. Dr. Lantin will be a practicing physician at the Center and will serve as its Medical Director. There will be one other physician performing gastroenterologic procedures, Frederick Fallick, M.D., however, he has no ownership interest in the Center.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management, the Office of Professional Medical Conduct, and the Education Department databases as well as the US Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

### Integration with Community Resources

The applicant is committed to the development of a formal outreach program and plans to work closely with its patients to educate them regarding the availability of primary care services offered by local providers, including the broad array of services offered by St. John's Riverside Hospital, the Center's emergency back-up hospital.

The Center is committed to service all persons in need without regard to source of payment, ability to pay, or other personal characteristics. Charity care will be provided, as well as reduced compensation or uncompensated care. The center intends on utilizing electronic medical records and plans to fully integrate and exchange information with an established regional health information organization (RHIO) with the capability for clinical referral and event notification.

### Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the facility conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The facility's admissions policy will include anti-discrimination regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, or source of payment. All procedures will be performed in accordance with all applicable federal and state codes, rules and regulations, including standards for credentialing, anesthesiology services, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

### Recommendation

**From a programmatic perspective, contingent approval is recommended.**

## Financial Analysis

### Total Project Cost and Financing

Total project costs, estimated at \$1,820,510, are as follows:

Renovation & Demolition	\$1,234,000
Design Contingency	123,400
Construction Contingency	123,400
Architect/Engineering Fees	82,267
Other Fees	51,417
Movable Equipment	128,542
Financing Costs	24,577
Interim Interest Expense	40,961
CON Application Fee	2,000
CON Processing Fee	<u>9,947</u>
Total Project Cost	\$1,820,510

Project costs are based on a construction start date of October 1, 2016, with a four-month construction period.

The applicant's financing plan appears as follows:

Cash Equity (Applicant)	\$182,051
Bank Loan (3.25% for a 10-year term)	<u>\$1,638,459</u>
Total	\$1,820,510

JP Morgan Chase Bank has provided a letter of interest at the stated terms.

### Lease Rental Agreement

The applicant submitted a draft lease for the proposed site. The terms are summarized below:

Premises:	Approximately 4,812 rentable square feet in an existing building located at 1086 North Broadway, Yonkers, (Westchester County), NY
Landlord:	Boyce Thompson Center, LLC
Lessee:	Gastroenterology if Westchester, LLC
Term:	10 years
Rental:	\$221,352 annually (\$18,446 monthly or \$ 46 per square foot.)
Provisions:	Water and maintenance services are included in the rent

The applicant provided an affidavit stating that the lease is an arm's length arrangement. The applicant submitted letters from two NYS licensed realtors attesting to the rent being of fair market value.

### Operating Budget

The applicant submitted their first and third year operating budgets, in 2016 dollars, summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Procedure</u>	<u>Total</u>	<u>Per Procedure</u>	<u>Total</u>
Revenues				
Medicaid MC	\$446.78	\$348,490	\$439.33	\$374,305
Medicare FFS	\$448.18	\$279,665	\$448.09	\$305,598
Medicare MC	\$380.96	\$178,287	\$381.25	\$194,819
Commercial FFS	\$717.09	\$447,465	\$716.95	\$488,957
Commercial MC	\$649.22	\$263,585	\$650.17	\$288,026
Private Pay/Other	\$134.46	<u>\$20,975</u>	\$134.82	<u>\$22,920</u>
Total Revenues		\$1,538,467		\$1,674,625

Expenses				
Operating	\$318.97	\$995,201	\$300.36	\$1,023,620
Capital	<u>\$132.16</u>	<u>\$412,344</u>	<u>\$120.96</u>	<u>\$412,222</u>
Total Expenses	\$451.14	\$1,407,545	\$421.32	\$1,435,842
Net Income or (Loss)		\$130,922		\$238,783
Utilization (procedures)		3,120		3,408

Utilization by payor source for the first and third years is anticipated as follows:

Medicaid MC	25%
Medicare FFS	20%
Medicare MC	15%
Commercial FFS	20%
Commercial MC	13%
Private Pay/ Other	5%
Charity	<u>2%</u>
Total	100%

The following is noted with respect to the submitted budget:

- Revenue assumptions are based on current and projected Federal and State government reimbursement rates, with commercial payor rates reflecting adjustments based on experience in the region.
- Utilization projections are based on the current caseloads of Drs. Lantin and Fallick, both are board-certified gastroenterologists. The applicant indicated that none of the projected procedures will come from any other hospital. The procedures are currently being performed in the physicians' office-based practices, which are located in the same community that the FASC will serve. Each physician has submitted letters in support of their utilization projections.
- Expense assumptions are based upon staffing, operating and capital costs as determined based on the experience of the participating physicians, as well as the experience of other FASCs in New York State in providing similar service patient care.
- The breakeven point based on the projected utilization is approximately 91.51% or 2,855 procedures in Year One, and 85.77% or 2,923 procedures in Year Three.

#### Capability and Feasibility

The total project cost of \$1,820,510 will be satisfied by the proposed member's equity contribution of \$182,051 with the balance of \$1,638,459 to be financed by JP Morgan Chase Bank at the above stated terms.

Working capital requirements are estimated at \$239,307 based on two months of third year expenses. The applicant has submitted a letter of interest from JP Morgan Chase Bank to finance \$119,653 of the working capital for a five-year term at Prime plus 2% interest, currently estimated 5.5% (Prime rate is 3.5% as of 3/22/16). The remaining \$119,654 in working capital will be provided from the sole owner's financial resources. BFA Attachment A presents the net worth statement of the Dr. Jose Lantin, which indicates sufficient liquid resources to meet the equity and working capital requirements.

BFA Attachment B provides the pro-forma balance sheet of Gastroenterology of Westchester, LLC that shows operations will start with \$301,705 in equity.

Gastroenterology of Westchester, LLC projects an operating excess of \$130,922 and \$238,783 in the first and third years, respectively. Revenues for Medicare and Medicaid are based on current and projected reimbursement rates for the respective payors. The payment rates for commercial payors were determined by the applicant based on contacts made with various similar service providers to obtain their current rate schedules. The budgets are reasonable.

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

**From a financial perspective, contingent approval is recommended.**

## Attachments

BFA Attachment A	Personal Net Worth Statement of sole member of JTL Consulting, LLC
BFA Attachment B	Pro Forma Balance Sheet of Gastroenterology of Westchester, LLC
BPNR Attachment	Map



**Project # 152384-E  
Suffolk Primary Health, LLC**

**Program:** Diagnostic and Treatment Center    **County:** Suffolk  
**Purpose:** Establishment    **Acknowledged:** January 8, 2016

**Executive Summary**

**Description**

Suffolk Primary Health, LLC, a New York limited liability company, requests approval to be established as the new operator of United Comprehensive Care, Ltd., an existing Article 28 Diagnostic and Treatment Center (D&TC) located at 170 Old Country Road, Riverdale (Suffolk County). The proposed member of Suffolk Primary Health, LLC is Kenneth Gaul. The facility is currently licensed to provide Medical Services - Primary Care, therapy services, clinical laboratory services and podiatry. Following the change in ownership the provider will focus on primary care only, until the operations are stabilized and the expansion of services can be accomplished. Upon approval, the applicant will change the name of the facility to Suffolk Primary Health.

On May 12, 2012, United Comprehensive Care, Ltd., the current operator of the D&TC, entered into an Asset Purchase Agreement (APA) with Kenneth Gaul and Joseph Zwolak, whereby Mr. Gaul and Mr. Zwolak agreed to purchase the operations of United Comprehensive Care, Ltd. The APA provides that the purchase price for the assets is the assumption of certain liabilities by the buyers, as outlined in the agreement.

Mr. Zwolak and Mr. Gaul organized Suffolk Primary Health, LLC as their designee to purchase United Comprehensive Care, Ltd. On October 20, 2014, Mr. Zwolak and Mr. Gaul entered into an Assignment and Assumption Agreement, whereby Mr. Zwolak assigned all of his membership interest in Suffolk Primary Health, LLC to Mr. Gaul, who then became the 100% member/manager of Suffolk Primary Health, LLC.

Ownership of the D&TC operation after the requested change is as follows:

<u>Proposed Operator</u>	
Suffolk Primary Health, LLC	
<u>Member</u>	
Kenneth Gaul	100%

OPCHSM Recommendation  
Contingent Approval

**Need Summary**

Suffolk Primary Health, LLC, proposes to become the new operator of an existing diagnostic and treatment center located at 170 Old Country Road, Riverhead, 11901, in Suffolk County, currently operated by United Comprehensive Care, LTD. The clinic will continue to provide the following services: Medical Services - Primary Care and Medical Services - Other Medical Specialties. The number of projected visits is 6,281 in Year 1.

**Program Summary**

Based on the information reviewed, staff found nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

**Financial Summary**

The purchase price for the operations is the assumption of liabilities. The proposed buyer paid off the current operators' existing bank loan of \$731,656 with a new \$850,000 loan guaranteed by Kenneth Gaul, which appears on Mr. Gaul's personal net worth statement. This

bank loan liability is a component of the total liability reported in United Comprehensive Care Ltd.'s internal 12/31/15 Balance Sheet account labeled "Due to Other" in the amount of \$3,429,211. This "Due to Other" liability will be converted to equity upon approval of the change in ownership application. There are no project costs associated with this application.

The projected budget is as follows:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$781,950	\$1,104,216
Expenses	<u>932,746</u>	<u>1,030,787</u>
Net income	(\$150,796)	\$73,429

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
2. Submission of a photocopy of the applicant's amended articles of organization, which are acceptable to the department. [CSL]
3. Submission of a photocopy of the applicant's amended operating agreement, which is acceptable to the department. [CSL]
4. Submission of a photocopy of an executed amended facility lease, which is acceptable to the department. [CSL]
5. Submission of a photocopy of an executed medical director agreement, which is acceptable to the department. [CSL]

**Approval conditional upon:**

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
3. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
4. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
5. The clinical space must be used exclusively for the approved purpose. [HSP]

Council Action Date

**June 9, 2016**

## Need Analysis

### Analysis

The service area is Suffolk County. The population of Suffolk County was 1,493,350 in 2010. Per the Cornell Program on Applied Demographics (PAD) projection data, the population of Suffolk County is projected to grow to 1,543,715 by 2025.

Suffolk Primary Health, LLC is proposing to initially provide primary care.

Per HRSA, areas of Suffolk County are designated as a Medically Underserved Area/Population:

Medically Underserved Area/Population

- Low Income – Riverhead

The number of projected visits is 6,281 in Year 1 and 8,973 in Year 3.

### Conclusion

Approval of this proposed change in ownership will allow for the continued access to the primary care services at this location in Suffolk County.

### Recommendation

**From a need perspective, approval is recommended.**

## Program Analysis

### Project Proposal

Establish Suffolk Primary Health, LLC as the new operator of United Comprehensive Care, LTD, an existing and operating Article 28 diagnostic and treatment center operating at 170 Old Country Road, Riverhead in Suffolk County. Upon approval, the name of the facility will be changed to Suffolk Primary Health.

Upon approval the facility will be certified for Medical Services – Primary Care only; all other services currently on the operating certificate will be decertified. Eventually the proposed operator intends to request additional services, which will be the subject of future Certificate of Need applications.

### Character and Competence

The sole member of Suffolk Primary Health, LLC is Kenneth Gaul. Mr. Gaul has a long history of administration in health care facilities.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted regarding licenses held, formal education, training in pertinent health and/or related areas, employment history, a record of legal actions, and a disclosure of the applicant's ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management, the Office of Professional Medical Conduct, and the Education Department databases, as well as the U.S. Department of Health and Human Services Office of the Inspector General Medicare exclusion database.

Disclosure information was similarly submitted and reviewed for the Medical Director. Jose Rodriguez-Ospina, M.D. is a Family Practitioner who operated a private practice for over 20 years. Since 2013, Dr. Rodriguez-Ospina has been employed in the Article 28 setting and is experienced in the development of medical protocols for primary care clinics.

Additionally, the staff from the Division of Certification & Surveillance reviewed the ten year surveillance history of all associated facilities. Sources of information included the files, records, and reports found in the Department of Health. Included in the review were the results of any incident and/or complaint

investigations, independent professional reviews, and/or comprehensive/focused inspections. The review found that any citations were properly corrected with appropriate remedial action.

Recommendation

**From a programmatic perspective, approval is recommended.**

<b>Financial Analysis</b>
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Asset Purchase Agreement

The applicant submitted an executed APA for the purchase of the DTC operations, as summarized below:

Date:	May 21, 2012
Seller:	United Comprehensive Care, Ltd.
Buyer:	Kenneth Gaul and Joseph Zwolak
Assets Acquired:	All current, non-obsolete, useable, merchantable and saleable inventories of the Facility "as is" as of the Closing Date; all agreements of the Facility with suppliers, other distributors, licensees and licensors, purchase commitments, futures contracts and employment and all other agreements relating to the operation of the Facility including, but not limited to: the Assignment of the Article 28 license, all rights, title and interest of Seller in the trademarks, logos, trade names and copyrights associated with the Facility; all of the equipment, machinery and furniture owned or leased by Seller and used in the operation of the Facility; all of the unfilled purchase orders of the Facility as of the Closing Date; the goodwill associated with the Facility sold as a going concern; all other books and records relating solely to the Facility, and all bank accounts of the Seller.
Purchase Price:	The total purchase price shall be the assumption by the Buyers of the facility's existing liabilities.

The proposed buyer paid off the existing bank loan of \$731,656 with a new \$850,000 loan guaranteed by Ken Gaul, which appears on Ken Gaul's personal net worth statement. This referenced bank loan liability is a component of the liability reported in United Comprehensive Care Ltd.'s internal 12/31/15 Balance Sheet account labeled "Due to Other" in the amount of \$3,429,211. One of the loans included in this "Due to Other" account is a promissory note from the current operators, Augustus Mantia and Ronald Bernardini, to pay Kenneth Gaul and Joseph Zwolak a sum of \$135,892.78. This "Due to Other" liability will be converted to equity upon final approval of this application.

Assignment and Assumption Agreement

The applicant has submitted an executed assignment agreement for the transfer of all of Assignor's membership interest in the D&TC, which is summarized below:

Date:	October 20, 2014
Purpose:	Assignor desires to transfer and assign all of Assignor's membership interest in Suffolk Primary Health, LLC to Assignee, and Assignor desires to acquire the Interest.
Assignor:	Joseph Zwolak
Assignee:	Kenneth Gaul
Consideration:	\$10

### Lease Rental Agreement

The applicant has submitted an executed lease rental agreement for the site they will occupy, which is summarized below:

Date:	May 1, 2012
Premises:	5,719 square feet located at 170 Old Country Road, Riverhead, New York
Lessor:	Peconic Plaza, LLC
Lessee:	Kenneth Gaul and Joseph Zwolak d/b/a Suffolk Primary Health, LLC *
Term:	10-year term with a 5-year renewal period
Rental:	Year One-\$125,818 (\$22.00/sq. ft.). Thereafter, annual rent increases by 4% per year.

\* Per the assignment and assumption agreement dated October 20, 2014, Mr. Zwolak assigned his interest in the D&TC to Mr. Gaul, rendering Mr. Gaul 100% owner of Suffolk Primary Health, LLC.

The applicant has submitted an affidavit attesting that lease agreement is an arm's length transaction.

### Operating Budget

The applicant has submitted an operating budget, in 2016 dollars, for the first and third years after the change in operator, summarized below:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>	<u>Per Visit</u>	<u>Total</u>
<u>Revenues</u>						
Medicaid FFS	\$176.08	\$22,186	\$193.70	\$30,412	\$193.68	\$17,378
Medicaid MC	\$129.12	278,013	\$142.05	535,275	\$142.04	796,540
Medicare FFS	\$98.16	29,253	\$112.89	35,451	\$112.89	25,322
Medicare MC	\$99.28	4,865	\$114.57	53,794	\$114.20	102,466
Commercial FFS	\$69.06	35,982	\$79.45	69,837	\$79.42	117,582
Private Pay	\$75.87	<u>33,534</u>	\$91.05	<u>57,181</u>	\$91.04	<u>44,928</u>
Total Revenues		\$403,833		\$781,950		\$1,104,216
<u>Expenses</u>						
Operating	\$173.39	\$622,281	\$95.61	\$600,537	\$77.86	\$698,578
Capital	<u>86.58</u>	<u>310,734</u>	<u>52.89</u>	<u>332,209</u>	<u>37.02</u>	<u>332,209</u>
Total Expenses	\$259.97	\$933,015	\$148.50	\$932,746	\$114.88	\$1,030,787
Net Income		<u>(\$529,182)</u>		<u>(\$150,796)</u>		<u>\$73,429</u>
Utilization (Visits)		3,589		6,281		8,973
Cost Per Visit		\$259.97		\$148.50		\$114.87

Revenue and expense assumptions are based on the historical experience of the facility. Year One expenses will decrease due to a reduction in other direct expenses related to the elimination of one-time expenses incurred by the current operator, including administration/consulting (\$30,000) and auditing fees (\$90,000). An increase in visits is anticipated as a result of the implementation of more efficient operations. The existing operator and the applicant have been speaking with representatives of Northwell / Peconic Bay Hospital on collaborative efforts related to primary care services and the desired result of DSRIP. The proposed operator is planning the following improvements: implementation of an electronic medical records system, implementation of a more expansive marketing program to make the community aware of the Center's existence, working more closely with the local hospital and the PPS in implementation of DSRIP efforts, and the existing operator has retained a new medical billing company which has implemented a more efficient method of billing efforts and timely collection.

Utilization broken down by payor source for the current year (2015) and the first and third years after the change in ownership is summarized as follows:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Medicaid FFS	3.51%	2.5%	1.0%
Medicaid MC	59.99%	60.0%	62.5%
Medicare FFS	8.30%	5.0%	2.5%
Medicare MC	1.37%	7.5%	10.0%
Commercial FFS	14.52%	14.0%	16.5%
Private Pay	12.31%	10.0%	5.5%
Charity Care	0.00%	1.0%	2.0%

#### Capability and Feasibility

The purchase price is the assumption of liabilities. The proposed buyer paid off the existing bank loan of \$731,656 with a new \$850,000 loan guaranteed by Kenneth Gaul, which appears on Mr. Gaul's personal net worth statement. This reference liability is a component of the liability as reported in United Comprehensive Care Ltd.'s internal 12/31/15 Balance Sheet account "Due to Other" in the amount of \$3,429,211. As previously noted, this Balance Sheet liability will be converted to equity upon approval of the change in ownership application.

Working capital requirements are estimated at \$171,797 based on two months of third year expenses. The proposed member will provide equity to meet the working capital requirement. BFA Attachment A is the personal net worth statement of the proposed member of Suffolk Primary Health, LLC, which indicates the availability of sufficient funds for the equity contribution to meet the working capital requirement. BFA Attachment B is the pro forma balance sheet as of the first day of operation, which indicates a positive net asset position of \$329,612.

The submitted budget projects a net income of (\$150,796) and \$73,429 during the first and third years after the change in ownership. The proposed member of Suffolk Primary Health, LLC will cover any operating loss from his personal resources. BFA Attachment A, the personal net worth statement of the proposed member, indicates the availability of sufficient funds. Revenues reflect current reimbursement methodologies for diagnostic and treatment services. The applicant indicated that reimbursement rates are projected to increase from historical based on the following factors: the existing managed care contracts for all payers have not been reviewed by the existing operator for several years, and a combination of the increased acuity of patients coming to the Center and expanded development of specialty services will positively influence reimbursement. The submitted budget appears reasonable.

BFA Attachment C is the 2014 certified financial statements of United Comprehensive Care, Ltd. As shown, the entity had a positive working capital position and a shareholders deficit. The entity incurred a loss of \$866,325 in 2014. The applicant has indicated that the reason for the losses were the result of inefficient programmatic and operational management and billing inefficiencies.

BFA Attachment D is the 2015 internal financial statements of United Comprehensive Care, Ltd. As shown, the entity had a negative working capital position and a negative net asset position in 2015. Also, the entity incurred a net loss of \$529,182 in 2015. The reason for the losses were the result of ongoing inefficient programmatic and operational management and billing inefficiencies of the current operators.

The applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

#### Recommendation

**From a financial perspective, approval is recommended.**

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## Attachments

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- BFA Attachment A Personal Net Worth Statement
- BFA Attachment B Pro Forma Balance Sheet
- BFA Attachment C Financial Summary - 2014 certified financial statements of United Comprehensive Care, Ltd.
- BFA Attachment D Financial Summary - 2015 internal financial statements of United Comprehensive Care, Ltd.



**Project # 152111-E  
CCRNC, LLC d/b/a Crown Park Rehabilitation  
and Nursing Center**

**Program:** Residential Health Care Facility  
**Purpose:** Establishment

**County:** Cortland  
**Acknowledged:** August 25, 2015

**Executive Summary**

**Description**

CCRNC, LLC d/b/a Crown Park Rehabilitation and Nursing Center, a New York limited liability company, requests approval to be established as the operator of Crown Center for Nursing and Rehabilitation, a 200-bed, proprietary, Article 28 residential health care facility (RHCF) located at 28 Kellogg Road, Cortland (Cortland County). The facility is currently operated by Cortland Acquisition, LLC. A separate entity, Kellogg Road Realty Group, LLC, will acquire the real property. There will be no change in beds or services provided.

On March 1, 2015, Cortland Acquisition, LLC entered into an Asset Purchase Agreement (APA) with CCRNC, LLC for the sale and acquisition of the operating interests of the RHCF. Concurrently, Cortland Property NY, LLC, the realty owner, entered into a Real Estate Purchase Agreement (REPA) with Kellogg Road Realty Group, LLC for the sale and acquisition of the facility's real property. The APA and REPA will close at the same time, upon approval of this application by the Public Health and Health Planning Council (PHHPC). There is a relationship between CCRNC, LLC and Kellogg Road Realty Group, LLC in that the entities have identical membership. The applicant will lease the premises from Kellogg Road Realty Group, LLC.

Proposed ownership of the operations is as follows:

<u>Proposed Operator</u>	
CCRNC, LLC d/b/a Crown Park Rehabilitation & Nursing Center	
<u>Members</u>	<u>%</u>
Efraim Steif	39.9%
Uri Koenig	60.0%
David Camerota	0.1%

BFA Attachment B presents the Current and Proposed Owners of the real property.

OPCHSM Recommendation  
Contingent Approval

**Need Summary**

There will be no changes to beds or services as a result of this project. Crown Center for Nursing and Rehabilitation's occupancy was 88.4% in 2012, 90.7% in 2013, and 93.5% in 2014. Current occupancy, as of January 20, 2016 is 96.0%.

**Program Summary**

This application proposes to establish CCRNC, LLC as the as the new operator of the 200-bed residential health care facility located at 28 Kellogg Road, Cortland currently operated as the Crown Center for Nursing and Rehabilitation. The facility will be operated as Crown Park Rehabilitation and Nursing Center as a result of this transaction.

No negative information has been received concerning the character and competence of the proposed applicants identified as new members. No changes in the program or physical environment are proposed in this application. It is anticipated that the applicant will enter into an administrative services and consulting agreement with a related entity.

#### Financial Summary

CCRNC, LLC will acquire the RHCF operating assets for \$50,000, which will be funded from the members' equity, plus an Agreed FF&E Price (net undepreciated value of furniture, fixtures and equipment at Closing) minus the assumption of certain liabilities as defined in the APA. The FF&E Price and the amount of assumed liabilities are anticipated to be roughly equivalent.

Kellogg Road Realty Group, LLC will purchase the real property for \$16,950,000 to be funded

with \$1,595,000 of members' equity, a \$1,000,000 promissory note payable to Cortland Property NY, LLC (seller) in 60 equal consecutive monthly payments, and a \$14,355,000 loan with a 10-year term, 25-year amortization period and interest to be fixed 3 business days prior to closing at 235 basis points over the Federal Reserve H.15/5 year Swap Index (approximately 3.61% as of March 4, 2016). S&T Bank has provided a letter of interest. Efraim Steif and Uri Koenig, proposed realty members, submitted affidavits committing to funding the balloon payment with equity if refinancing is not attainable. The applicant has provided a draft Promissory Note agreement for the monthly payments. There are no project costs associated with this application.

The proposed budget is:

Revenues:	\$15,511,101
Expenses:	<u>\$14,841,364</u>
Net Income:	\$ 669,737

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
2. Submission of an executed real property loan commitment, acceptable to the Department of Health. [BFA]
3. Submission of an executed promissory note, acceptable to the Department of Health. [BFA]
4. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
5. Submission of a plan to continue to enhance access to Medicaid residents. At a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will:
  - a. Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
  - b. Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility; and
  - c. Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy. [RNR]
6. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
  - a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
  - b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
  - c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy.
  - d. Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
  - e. Other factors as determined by the applicant to be pertinent. [RNR]
7. Submission and review of an acceptable consulting and services agreement. [LTC]
8. Submission of a photocopy of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]
9. Submission of the applicant's amended Asset Purchase Agreement, acceptable to the Department. [CSL]
10. Submission of the applicant's Real Estate Purchase Agreement, acceptable to the Department. [CSL]
11. Submission of the applicant's amended Administrative Service Agreement, acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date  
**June 9, 2016**

# Need Analysis

## Project Description

CCRNC, LLC seeks approval to become the established operator of Crown Center for Nursing and Rehabilitation, an existing 200-bed Article 28 residential health care facility (RHCF), located at 28 Kellogg Road, Cortland, 13045, in Cortland County. Upon approval of this application, Crown Center for Nursing and Rehabilitation will be renamed Crown Park Rehabilitation and Nursing Center.

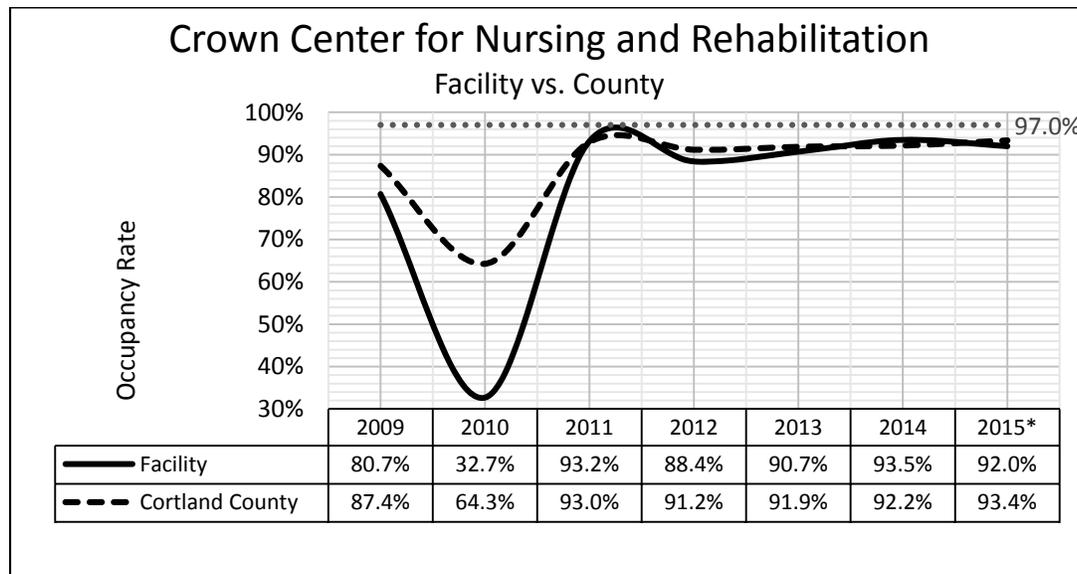
## Analysis

There is currently a surplus of 62 beds in Cortland County as indicated in the following table:

### RHCF Need – Cortland County

<b>2016 Projected Need</b>	338
<b>Current Beds</b>	400
<b>Beds Under Construction</b>	0
<b>Total Resources</b>	400
<b>Unmet Need</b>	-62

The overall occupancy for Cortland County is 92.2% for 2014 as indicated in the following chart:



\*unaudited; facility reported data

Crown Center for Nursing and Rehabilitation's occupancy was 93.2% in 2011, 88.4% in 2012, 90.7% in 2013 and 93.5% in 2014. The decline in occupancy between 2011 and 2012 is attributed to unstable financial outcomes, resulting in net operating losses. The decline in occupancy between 2012 through 2014 is attributed to the following:

- Between 2012 and 2013, the facility underwent extensive renovations. Up to 40 beds at a time were unavailable for occupancy, as well as common areas such as the gym, activity room, and dining room.
- Management issues combined with up to 20% of the facility's beds offline at a time caused occupancy levels to remain low during 2013 and 2014.

On March 1, 2015, Upstate Services Group, LLC (USG) entered into an Administrative Services Agreement (ASA) with the facility. It should be noted that the applicant's members are also members of USG. During the time USG has provided services to the facility, the following programs have been identified and implemented. The applicant believes these programs will help drive occupancy to the Department's 97% planning optimum in the first three years.

- The facility improved its level of staff expertise to include complex care for Difficult-to-Place Patients (DTP) consisting of PICC lines, IV medications, trachs, and negative pressure wound therapy modalities. The facility also developed an all-male behavior unit and a dementia unit to increase opportunities for patient referrals, in addition to the existing short-term rehabilitation and long-term care services already offered. These services will increase the facility's capacity to accept more challenging cases from Cortland Regional Medical Center and all area hospitals.
  - According to the Syracuse Hospital Executive Council, 443 DTP patients were admitted to RHCs outside of Onondaga County in 2015. The distribution of the 443 DTP patients by county is provided in the following table:

<b>County</b>	<b>Number of Difficult-to-Place Patients</b>	<b>Percentage of Difficult-to-Place Patients</b>
Cayuga	18	4.0%
Cortland	103	23.3%
Jefferson	4	0.9%
Madison	60	13.5%
Oneida	78	17.6%
Oswego	73	16.5%
Saint Lawrence	2	0.5%
Other	105	23.7%
<b>Total</b>	<b>443</b>	<b>100%</b>

- Excluding counties in the other category, Cortland County accepted the most number of DTP patients from Syracuse hospitals that were admitted to RHCs outside of Onondaga County. Of the 103 DTP residents placed in Cortland County, 97 residents (94.2%) were admitted to Crown Center for Nursing and Rehabilitation. This demonstrates that the facility is fully capable and well-positioned to maintain occupancy levels due to their ability to provide care to the DTP population.
- The applicant notes their experience admitting DTP patients in the Onondaga County RHCs they operate as evidence of their commitment to serve this population. In 2014, 25.2% of all new admissions to the Van Duyn Center for Rehabilitation and Nursing consisted of DTP patients and this percentage increased to 39.0% of new admissions in 2015. In 2014, 49.4% of all new admissions to Central Park Rehabilitation and Nursing Center were difficult-to-place and this percentage increased to 51.0% of new admissions in 2015.
- The Syracuse Hospital Executive Council maintains a list of DTP patients and updates it weekly. The facility has been a recipient of patients from this list and will continue to search for opportunities to increase referrals;
- The facility will continue its focus on becoming an effective hospital partner, which will include identifying ways to reduce the length of hospital stays and/or eliminate avoidable re-hospitalizations;
- The facility will become part of a larger group of facilities operated by the applicant in Central New York, which should foster acceptance of the facility as a trusted provider;
- The facility's onsite concierge program has proven to be a key driver of customer satisfaction and the applicant intends to maintain and improve upon this program;
- The facility employs a Registered Nurse Screener who has established relationships in three Syracuse-area hospitals. The applicant will work with this individual to enhance these hospital relationships;
- The facility's Admissions Director has ties to St. Joseph's Medical Center in Syracuse as a former discharge planner of the hospital. The applicant will work with this individual to enhance their relationship with St. Joseph's;

- A community outreach program is in place for staff members to market the facility to key stakeholders in the Cortland community. This includes a more substantial, robust advertising and marketing campaign to include television commercials, radio ads and social media marketing; and
- The facility will continue to host orthopedic physician group talks for members of the community and professionals. These programs are well-attended and positions the facility as an important community resource.

#### Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable. Crown Center for Nursing and Rehabilitation's Medicaid admissions of 52.5% in 2012 and 52.4% in 2013 exceeded the Cortland County 75% rates of 23.7% in 2012 and 25.2% in 2013.

#### Conclusion

Given the significant issues difficult-to-place residents experience and the applicant's members' demonstrated ability to serve this population, approval of this application will result in maintaining a necessary resource in Cortland County and surrounding communities.

#### Recommendation

**From a need perspective, contingent approval is recommended.**

## Program Analysis

#### Facility Information

	<b>Existing</b>	<b>Proposed</b>
<b>Facility Name</b>	Crown Center for Nursing and Rehabilitation	Crown Park Rehabilitation and Nursing Center
<b>Address</b>	28 Kellogg Road Cortland, NY	Same
<b>RHCF Capacity</b>	200	Same
<b>ADHC Program Capacity</b>	N/A	Same
<b>Type of Operator</b>	Limited Liability Company	Limited Liability Company
<b>Class of Operator</b>	Proprietary	Proprietary
<b>Operator</b>	Cortland Acquisition LLC	CCRNC, LLC d/b/a Crown Park Rehabilitation and Nursing Center  <u>Members</u> *Uri Koenig                   60.00% *Efraim Steif                 39.90% David Camerota <u>0.10%</u> 100.00% *Managing Members

## Character and Competence – Background

### Facilities Reviewed

#### Nursing Homes

Beechtree Center for Rehabilitation and Nursing	09/2013 to present
Bridgewater Center for Rehabilitation & Nursing	04/2006 to present
Capstone Center for Rehabilitation and Nursing	03/2012 to present
Central Park Rehabilitation and Nursing Center	11/2008 to present
Chestnut Park Rehabilitation and Nursing Center	06/2011 to present
Cortland Park Rehabilitation and Nursing Center	06/2011 to present
Colonial Park Rehabilitation and Nursing Center	06/2011 to present
Folts Center for Rehabilitation and Nursing (receivership)	10/2013 to 2/2015
Highland Park Rehabilitation and Nursing	06/2011 to present
Hudson Park Rehabilitation and Nursing	06/2011 to present
Northeast Center for Rehabilitation and Brain Injury	11/2013 to present
Pine Valley Center for Rehabilitation and Nursing	04/2006 to present
Riverside Center for Rehabilitation and Nursing	03/2012 to present
Van Duyn Center for Rehabilitation and Nursing	12/2013 to present
Vestal Park Rehabilitation and Nursing	06/2011 to present
Westchester Center for Rehabilitation and Nursing	04/2006 to 12/2006

#### Diagnostic and Treatment Center

Bridgewater Center for Dialysis	03/2012 to present
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#### Adult Care Facility

Riverside Manor Adult Care (closed)	09/2009 to 07/2010
The Pavillion at Claxton Manor (receivership on Folts Campus)	10/2013 to 2/2015

### Individual Background Review

The ownership share, as disclosed by the applicant, is indicated in parenthesis.

**Uri Koenig** is a CPA in good standing and owner of JK Koenig & Co., an accounting firm located in Spring Valley, NY. He is a member of Upstate Services Group, LLC. Upstate Services Group is an administrative services organization providing administrative services to affiliated long term care facilities. Mr. Koenig discloses the following health facility interests:

Bridgewater Center for Rehabilitation & Nursing (55%)	08/2006 to present
Pine Valley Center for Rehabilitation and Nursing (17.714%)	01/2008 to present
Central Park Rehabilitation and Nursing Center (27.5%)	03/2012 to present
Van Duyn Center for Rehabilitation and Nursing (60%)	12/2013 to present
Chestnut Park Rehabilitation and Nursing Center (60%)	06/2011 to present
Cortland Park Rehabilitation and Nursing Center (60%)	06/2011 to present
Colonial Park Rehabilitation and Nursing Center (60%)	06/2011 to present
Highland Park Rehabilitation and Nursing (60%)	06/2011 to present
Hudson Park Rehabilitation and Nursing Center (60%)	06/2011 to present
Vestal Park Rehabilitation and Nursing Center (60%)	06/2011 to present
Riverside Center for Rehabilitation and Nursing (60%)	03/2012 to present
Capstone Center for Rehabilitation and Nursing (60%)	03/2012 to present
Northeast Center for Rehabilitation and Brain Injury (60%)	11/2013 to present
Beechtree Center for Rehabilitation and Nursing (60%)	09/2013 to present
Bridgewater Center for Dialysis (55%)	03/2012 to present
Folts Center for Rehabilitation and Nursing	10/2013 to 02/13/2015
The Pavillion at Claxton Manor	10/2013 to 02/13/2015

Mr. Koenig has also received PHHPC approval to operate Evergreen Commons Rehabilitation and Nursing Center (CON#151180). The transaction was not completed at the time of this report.

**Efraim Steif** is a licensed Nursing Home Administrator in New York State. Mr. Steif is the President of FRS Healthcare Consultants, Inc., and formerly served as Administrator of Record at Forest View Center for Rehab and Nursing in Forest Hills from 2000 to 2005. He is a member of Upstate Services Group, LLC. Upstate Services Group is an administrative services organization providing administrative services to affiliated long term care facilities. Mr. Steif discloses the following health care facility interests:

Bridgewater Center for Rehabilitation & Nursing (44.9%)	02/2005 to present
Pine Valley Center for Rehabilitation and Nursing (49.9%)	12/2004 to present
Central Park Rehabilitation and Nursing Center (44.9%)	11/2008 to present
Van Duyn Center for Rehabilitation and Nursing (39.9%)	12/2013 to present
Chestnut Park Rehabilitation and Nursing Center (39.9%)	06/2011 to present
Cortland Park Rehabilitation and Nursing Center (39.9%)	06/2011 to present
Colonial Park Rehabilitation and Nursing Center (39.9%)	06/2011 to present
Highland Park Rehabilitation and Nursing (39.9%)	06/2011 to present
Hudson Park Rehabilitation and Nursing Center (39.9%)	06/2011 to present
Vestal Park Rehabilitation and Nursing Center (39.9%)	06/2011 to present
Riverside Center for Rehabilitation and Nursing (39.9%)	03/2012 to present
Capstone Center for Rehabilitation and Nursing (39.9%)	03/2012 to present
Beechtree Center for Rehabilitation and Nursing (39.9%)	09/2013 to present
Northeast Center for Rehabilitation and Brain Injury (39.9%)	11/2013 to present
Bridgewater Center for Dialysis (45%)	03/2012 to present
Riverside Manor Adult Care (closed)	09/2009 to 07/2010
Westchester Center for Rehabilitation and Nursing	01/2003 to 12/2006
Folts Center for Rehabilitation and Nursing (39.9%)	10/2013 to 02/13/2015
The Pavillion at Claxton Manor (39.9%)	10/2013 to 02/13/2015

Mr. Steif has also received PHHPC approval to operate Evergreen Commons Rehabilitation and Nursing Center (CON#151180). The transaction was not completed at the time of this report.

**David Camerota** is a licensed NY nursing home administrator in good standing. He is currently employed as chief operating officer with Upstate Services Group, LLC, which provides administrative and operational support to its affiliated skilled nursing facilities throughout New York. Mr. Camerota has served nearly continuously as administrator for the past eleven years at several upstate New York skilled nursing facilities. Mr. Camerota discloses the following health care facility interests:

Central Park Rehabilitation and Nursing Center (.1%)	02/2012 to present
Van Duyn Center for Rehabilitation and Nursing (.1%)	12/2013 to present
Bridgewater Center for Rehabilitation and Nursing (.1%)	03/2011 to present
Chestnut Park Rehabilitation and Nursing Center	06/2011 to present
Cortland Park Rehabilitation and Nursing Center (.1%)	06/2011 to present
Colonial Park Rehabilitation and Nursing Center (.1%)	06/2011 to present
Highland Park Rehabilitation and Nursing (.1%)	06/2011 to present
Hudson Park Rehabilitation and Nursing Center	06/2011 to present
Vestal Park Rehabilitation and Nursing Center (.1%)	06/2011 to present
Riverside Center for Rehabilitation and Nursing (.1%)	03/2012 to present
Capstone Center for Rehabilitation and Nursing (.1%)	03/2012 to present
Beechtree Center for Rehabilitation and Nursing (.1%)	09/2013 to present
Northeast Center for Rehabilitation and Brain Injury (.1%)	11/2013 to present
Bridgewater Center for Dialysis (.1%)	03/2012 to present
Folts Center for Rehabilitation and Nursing (Rec)	10/2013 to 02/13/2015
The Pavillion at Claxton Manor (Rec)	10/2013 to 02/13/2015

Mr. Camerota has also received PHHPC approval to operate Evergreen Commons Rehabilitation and Nursing Center (CON#151180). The transaction was not completed at the time of this report.

## Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants.

A review of Bridgewater Center for Rehabilitation & Nursing, LLC for the period identified above reveals the following:

- The facility was fined \$4,000 pursuant to a Stipulation and Order NH-13-016 issued May 29, 2013 for surveillance findings on July 6, 2011. Deficiencies were found under 10 NYCRR 415.26(f)(1) Written Plans for Emergency/Disasters and 415.26(f)(3) Emergency Procedure/Drills.
- Civil Monetary Penalty of \$3,575.00 for the period of July 6, 2011 to July 6, 2011.

A review of Central Park Rehabilitation and Nursing Center for the period identified above reveals the following.

- The facility was fined \$2,000 pursuant to a Stipulation and Order NH-10-064 issued December 6, 2010 for surveillance findings on May 26, 2009. Deficiencies were found under 10 NYCRR 415.19(a) Quality of Care: Infection Control.
- The facility was fined \$12,000 pursuant to Stipulation and Order NH-16-142 issued March 9, 2016 for surveillance findings on March 2, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care Highest Practicable Potential and 10NYCRR 415.12(c)(2) Quality of Care Pressures Sores, Prevention, Pressure Sores With Admission.

In response to the latest enforcement, the operators investigated the circumstances surrounding the violations and decided to implement a change to staffing which included adding multiple nurse managers to the facility. The operator has also implemented increased monitoring of the facility which includes onsite visits, mock surveys, and staff training conducted by Upstate Services Group's clinical consulting team. The Administrator is also required to complete a monthly report detailing risk analysis and trending of clinical and operational indicators.

A review of Highland Park Rehabilitation and Nursing Center for the period identified above reveals the following.

- The facility was fined \$10,000 pursuant to a Stipulation and Order for surveillance findings on October 25, 2013. Deficiencies were found under 10 NYCRR 415.3e(2)(ii)(b) Notification of Significant Changes in Condition.

A review of Hudson Park Rehabilitation and Nursing Center for the period identified above reveals the following.

- The facility was fined \$28,000 pursuant to a Stipulation and Order NH-15-020 for surveillance findings on March 20, 2012, February 1, 2013 and May 7, 2013. Deficiencies were cited on: March 30, 2012 for 10 NYCRR 415.15(b)(2)(iii) Physician Services: Physician Visits; March 1, 2013 for 10NYCRR 415.12 Quality of Care: Highest Practicable Potential, 10 NYCRR 415.12(m)(2) Quality of Care: Medication Errors, 10 NYCRR 415.26 Administration and 10 NYCRR 415.27(a-c) Administration: Quality Assessment and Assurance; May 7, 2013 for 10 NYCRR 415.12(h)(1)(2) Quality of Care: Accidents.
- The facility was fined \$18,000 pursuant to Stipulation and Order NH-16-137 for surveillance findings on January 28, 2011, March 28, 2011 and December 17, 2012. It should be noted that the applicant was the owner of the nursing home only at the time of the December 17, 2012 survey.
- The facility incurred a Civil Monetary Penalty of \$4,387.50 for the period of December 17, 2012 to February 1, 2013; and a Civil Monetary Penalty of \$48,600 for the period of September 19, 2013 to October 28, 2013.

An assessment of the underlying causes of the above enforcements determined that they were not recurrent in nature and the operator investigated the circumstances surrounding the violation, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. The State enforcements listed above were based on surveys that occurred while the facility was under receivership. The facility has experienced a state enforcement free period since permanent establishment of the current operators in December 2014.

A review of Van Duyn Center for Rehabilitation and Nursing for the period identified above reveals the following:

- The facility was fined \$14,000 pursuant to Stipulation and Order for surveillance findings on October 14, 2015. Deficiencies were found under 10NYCRR 415.14(b)(2)(h) Dietary Services Food Storage, 10NYCRR 415.19(c)(2) Quality of Care Pressure Sores With Admission and 10 NYCRR 415.12 Quality of Care Highest Practicable Potential.

The operator investigated the circumstances surrounding the violations, and took steps which a reasonably prudent operator would take to prevent the recurrence of the violation. This included a review of laboratory procedures which resulted in implementing a new audit tool and monthly skin reports developed by IPRO that are submitted to Upstate Services Group for analysis for possible patterns that require timely plans of action. For the food storage citation, the operator had already identified the need for replacement coolers and they were purchased and delivered prior to the citation but not yet in use. The new coolers were made operational immediately upon the citation which was based on the use of the old problematic coolers.

A review of operations for the Beechtree Center for Rehabilitation and Nursing, Capstone Center for Rehabilitation and Nursing, Chestnut Park Rehabilitation and Nursing Center, Colonial Park Rehabilitation and Nursing Center, Cortland Park Rehabilitation and Nursing Center, Folts Center for Rehabilitation and Nursing, Northeast Center for Rehabilitation and Brain Injury, Pine Valley Center for Rehabilitation and Nursing, Riverside Center for Rehabilitation and Nursing, Vestal Park Rehabilitation and Nursing Center, Westchester Center for Rehabilitation and Nursing, Riverside Manor Adult Care, The Pavilion at Claxton Manor, and Bridgewater Center for Dialysis for the periods identified above revealed that there were no enforcements.

#### Quality Review

Provider Name	Overall	Health Inspection	MDS Quality Measures
Crown Center For Nursing & Rehabilitation	*	*	*
Beechtree Center For Rehabilitation And Nursing	*	*	*
Bridgewater Center For Rehab & Nursing LLC	*	*	*
Capstone Center For Rehabilitation And Nursing	**	**	*
Central Park Rehabilitation And Nursing Center	*	*	****
Chestnut Park And Rehabilitation Nursing Center	**	**	**
Cortland Park Rehabilitation And Nursing Center	**	**	*****
Colonial Park Rehabilitation And Nursing Center	**	*	*****
Highland Park Rehabilitation And Nursing Center	**	**	***
Hudson Park Rehabilitation And Nursing Center	*	*	**
Northeast Center For Rehabilitation & Brain Injury	***	****	*
Pine Valley Center For Rehab And Nursing	*****	*****	*****
Riverside Center For Rehabilitation And Nursing	**	**	****
Van Duyn Center For Rehabilitation And Nursing	*	*	*
Vestal Park Rehabilitation And Nursing Center	*	*	*

Above ratings are based on CMS Provider Rating dated March 1, 2016.

### Project Review

This application proposes to establish CCRNC, LLC d/b/a Crown Park Rehabilitation and Nursing Center as the new operator of Crown Center for Nursing and Rehabilitation. No changes in the program or physical environment are proposed in this application. The previous ownership group, Cortland Acquisition LLC took ownership of the subject facility on 1/1/2015.

The current operator of the facility has entered into a consulting and administrative services agreement (CASA) with Upstate Services Group LLC, (Upstate) whose members include Messrs. Steif, Koenig and Camerota. The CASA specifies that Upstate will monitor the operations of the facility, provide advice on identified problems and suggest possible corrective actions. It is anticipated that this agreement will be extended to the new operators of the facility. Upstate Services Group provides similar services to numerous affiliated long term care facilities across the state. It should be noted that Upstate has no direct ownership interest in the operation of residential health care facilities in New York State. Although the applicant and Upstate share common ownership, CCRNC, LLC will operate as an independent and distinct legal entity.

### Conclusion

The character and competence review indicates the applicants have met the standard to provide a substantially consistent high level of care as set forth in Public Health Law §2801-a (3).

### Recommendation

**From a programmatic perspective, contingent approval is recommended.**

## Financial Analysis

### Asset Purchase Agreement

The applicant has submitted an executed asset purchase agreement to acquire the RHCF's operating interest. The agreement will be effectuated upon PHHPC approval of this CON. The terms are summarized below:

Date:	March 1, 2015
Seller:	Cortland Acquisition, LLC
Purchaser:	CCRNC, LLC
Asset Transferred:	All rights, title, interest in the assets used/held for use in connection with ownership and operation of the center; all cash, cash equivalents, marketable securities; all accounts, notes, refunds, other account receivables; assumed contracts; all rights under equipment leases; all FF&E; inventory; all books/records; all patient records; the current operator's Medicare and Medicaid provider numbers; all claims, cause of actions; name of the company; all telephones, faxes, intellectual properties and software used; all other assets, properties, claims, rights and interest of company.
Excluded Assets:	All claims, rights, causes of action, rights of recovery, rights of set-off and recoupment against or arising out of the ownership or operation of the facility or assets prior to the Contract Date. All accounts receivable prior to the contract date, permits of company; all benefit plans, all contracts other than the assumed contracts, personal items belonging to the owners, all rights and interest of company prior to the Contract Date.
Assumption of Liabilities:	Assumed liabilities including operator's obligations & liabilities with respect to the ownership or operation of the facility's assets to the extent arising on and after the Contract Date. All of the operator's accounts and trade payables and other liabilities, all liabilities with respect to assumed contracts.
Purchase Price:	\$50,000, plus Agreed FF&E Price, minus assumed liabilities prior to Closing (latter amounts roughly equivalent estimated at \$3,994,494 as of September 30, 2015).
Payment of Purchase Price:	\$50,000 due at Closing.

The purchase price for the RHCF's operating interest is \$50,000, to be funded from members' equity, plus Agreed FF&E price minus assumed liabilities (estimated at \$3,994,494 as of September 30, 2015). The FF&E price and the amount of assumed liabilities will be roughly equivalent.

BFA Attachment A is the net worth summary for the members of CCRNC, LLC, which reveals sufficient resources to meet the equity requirement.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. The facility had outstanding Medicaid liabilities of \$2,698,661 as of February 5, 2016.

#### Purchase and Sale Agreement for the Real Property

The applicant has submitted an executed real estate purchase agreement related to the purchase of the RHCF's real property. The agreement closes concurrent with the APA, upon PHHPC approval of this CON. The terms are summarized below:

Date:	March 1, 2015
Seller:	Cortland Property NY, LLC
Buyer:	Kellogg Road Realty Group, LLC
Purchase Price:	\$16,950,000 minus the agreed FF&E Price as defined in the APA.
Payment of Purchase Price:	\$1,000,000 deposit in Escrow on signing \$1,000,000 promissory note (5 years, payable in 60 equal monthly payments) \$14,950,000 due at Closing.

The purchase price for the real property acquisition is proposed to be satisfied as follows:

- Equity (Kellogg Road Realty Group, LLC Members) - \$1,595,000
- Promissory Note (5 years via 60 equal payments, no interest) - \$1,000,000
- Loan (10-year term, 25-year amortizing, interest rate fixed 3 business days prior to closing at 235 basis points over the Federal Reserve H.15 Bulletin/5 year Swap Index (approximately 3.61% as of 03/04/2016) - \$14,355,000.

BFA Attachment A is the net worth summaries of the proposed members' of Kellogg Road Realty Group, LLC, which reveals sufficient resources to meet the equity requirements. The applicant has submitted a draft promissory note with the seller, Cortland Property NY, LLC, that provides for repayment over 60 months at no interest. S&T Bank has provided a letter of interest for the realty loan financing. The proposed realty members have submitted affidavits attesting they will personally contribute resources to fund the balloon payment should acceptable financing not available at the time of refinancing.

#### Lease Agreement

The applicant has submitted an executed lease agreement for the RHCF real property, summarized below:

Date:	August 20, 2015
Premises:	200-bed RHCF located at 28 Kellogg Road, Cortland, NY 13045
Landlord:	Kellogg Road Realty Group, LLC
Lessee:	CCRNC, LLC d/b/a Crown Park Rehabilitation & Nursing Center
Term:	10 Years
Rental:	\$0 plus debt service on mortgage obtained by landlord to finance purchase of the premises, plus Landlord's administrative costs.
Provisions:	Tenant is responsible for real estate taxes, insurance, maintenance and utilities.

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and tenant.

Currently, Medicaid capital reimbursement is based on return of/return on equity methodology, which will not be altered upon the change in ownership.

#### Administrative Service Agreement

The applicant has submitted an executed Administrative Services Agreement (ASA), which is summarized below:

Date:	March 1, 2016
Service Provider:	Upstate Services Group, LLC
Facility:	CCRNC, LLC d/b/a Crown Park Rehabilitation & Nursing Center
Services Provided:	Monitor the operation of facility and advise of any problems; monitor the performance of facility; keep in force insurance policies and coverage; maintain census of patients; monitor the facility is in compliance with applicable laws and regulations; assist facility to develop and implement programs, to maximize reimbursement for services, to financing transactions, in the negotiation of contracts, to prepare and maintain its financial books and records, administration of account payable, accounts receivable and human resources functions, prepare payrolls.
Term:	The agreement commences on the date of this agreement and shall continue until it is terminated by either party on thirty days' notice.
Compensation:	\$465,000 for 1 <sup>st</sup> year. Future year will be adjusted for inflation factor.

There is a relationship between CCRNC, LLC and Upstate Services Group, LLC in that the entities have identical membership. Review of the ASA indicates that the Governing Law of the Agreement shall be governed by and construed in accordance with the laws of the State of New York; hence, while Upstate Services Group, LLC will provide the above services, the licensed Facility operator retains ultimate authority, responsibility and control for the operations.

#### Operating Budget

The applicant has provided an operating budget, in 2016 dollars, for the first year of operation subsequent to the change in ownership. The budget is summarized below:

	Per Diem	Current Year (2014)	Per Diem	Year One (2016)
<u>Revenues</u>				
Medicaid-FFS	\$189.97	\$10,438,917	\$189.97	\$10,418,039
Medicaid-MC	\$189.97	\$251,336	\$190.02	\$250,832
Medicare-FFS	\$282.74	\$1,310,504	\$282.75	\$1,991,966
Medicare-MC	\$282.74	\$751,525	\$282.74	\$1,127,288
Private Pay	\$319.83	\$789,657	\$319.79	\$1,184,486
Other-Assessment Rev		<u>\$1,518,117</u>	\$472.80	<u>\$538,490</u>
Total Revenue		\$15,060,056		\$15,511,101
<u>Expenses</u>				
Operating	\$197.30	\$13,028,628	\$193.27	\$13,701,738
Capital	<u>\$21.99</u>	<u>\$1,452,073</u>	<u>\$16.07</u>	<u>\$1,139,626</u>
Total	\$219.29	\$14,480,701	\$209.34	\$14,841,364
Net Income		<u>\$579,355</u>		<u>\$669,737</u>
Utilization/(Patient days)		66,034		70,895
Occupancy		90.45%		97.12%

The following is noted with respect to the submitted budget:

- Revenue assumptions are based on the current operator’s payment rates by payor, with the Medicaid revenue reflecting the facility’s current 2015 Medicaid Regional Pricing rate. Medicare, Private Pay and Other Manage Care payment rates are also based on the facility’s current 2015 rates.
- Expense assumptions are based on the costs incurred by the current operator as of May 31, 2015, then annualized, and include lease rental expense. It is noted that, effective March 1, 2015, the current operator entered into an ASA with Upstate Services Group, LLC, whose members are identical to the proposed operators. The proposed new operators have submitted an executed ASA with Upstate per this application. Therefore, the administrative services provided by Upstate to the RHCF will continue essentially uninterrupted upon PHHPC approval of this CON. The year one annual fee related to the ASA (\$465,000) has been included in the first year budget.
- The projected utilization for the facility is 97% in year one and year three. Utilization for the past three years has averaged around 90.76% and occupancy was 94.0% as of February 17, 2016.
- The applicant plans to increase utilization by changing the business model to one that supports DSRIP program goals, and by working closely with health care and social service providers. To facilitate a continued growth in utilization, the applicant plans on taking the following steps:
  - Add programs and services that will allow the facility to serve more medically complex individuals to increase the facility’s capacity to accept more challenging cases from all surrounding hospitals;
  - Enhance relationships with hospitals and become part of larger well respected group of facilities in Central New York to foster acceptance of the facility as a trusted provider which may result in increased referrals and admission to the RHCF;
  - Introduce a robust advertising and marketing campaign to include television commercials, radio ads and social media marketing; and
  - Integrate and coordinate medical, nursing and ancillary service programs to ensure a home like atmosphere for the residents.
- The breakdown utilization is projected at 93%
- Utilization by payor source for the current year and first year after the change in ownership is summarized below:

<u>Payor</u>	<u>Current Year</u>	<u>Year One</u>
Medicaid -FFS	83.21%	77.35%
Medicaid-MC	2.00%	1.86%
Medicare-FFS	7.02%	9.94%
Medicare-MC	4.03%	5.62%
Private Pay	<u>3.74%</u>	<u>5.22%</u>
Total	100%	100%

#### Capability and Feasibility

There are no project costs associated with this application.

The purchase price for the RHCF’s operating interest is \$50,000, to be funded from members’ equity, plus Agreed FF&E price minus assumed liabilities (estimated at \$3,994,494 as of September 30, 2015). The FF&E price and the amount of assumed liabilities will be roughly equivalent. Concurrently, Kellogg Road Realty Group, LLC will purchase the real property for \$16,950,000 to be funded as follows: \$1,595,000 in members’ equity, a \$1,000,000 promissory note payable in 60 equal payments with no interest, and a \$14,355,000 loan at the above stated terms. S&T Bank has provided a letter of interest for the loan. The applicant has submitted a draft Promissory note for monthly payments to the Seller. BFA Attachment H provides an amortization table for the balloon payment after 10 years. Proposed realty members have provided affidavits stating that they will personally contribute resources to fund the balloon payment should acceptable financing not be available at the time of refinancing. BFA Attachments A is the members’ net worth summaries, which shows sufficient assets to complete the transactions.

The working capital requirement is estimated at \$2,473,560 based on two months of Year One expenses. The applicant will provide \$1,273,560 from the members’ equity with the remaining \$1,200,000 to be satisfied through a five-year term loan at 7.5% interest. Century Health Capital, Inc. has provided a letter of interest. As referenced above, the members have sufficient liquid resources to meet both the project equity and working capital requirements.

The submitted budget projects net profit of \$669,737 in Year One after the change in ownership. The budget was created taking into consideration the proposed new owners' experience in operating similar size facilities. The proposed operator projects to increase occupancy by refocusing on implementing various programs, as stated above. BFA Attachment F is CCRNC, LLC's and Kellogg Road Realty Group, LLC's pro forma balance sheet, which shows the operating entity will start off with \$1,323,561 and realty entity will start off with \$1,595,000 in members' equity. CCRNC, LLC's equity includes \$50,000 in goodwill, which is not a liquid resource nor is it recognized for Medicaid reimbursement. Eliminating goodwill, the total net assets would become \$823,561. The budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A department policy, as described in the "Transition of Nursing Home Benefit and Population into Managed Care Policy Paper," provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing Medicaid NH revenues through the transition period. Suffolk County has transitioned to Medicaid Managed Care for new enrollees.

BFA Attachment D is the Financial Summary of Cortland Operating Co, LLC. As shown, the RHC had an average positive working capital position of \$693,920, average positive net assets of \$2,242, and an average income of \$436,525 for the period and net operating loss of \$226,453 as of September 30, 2015. The proposed sale of the nursing home is expected to result in improved utilization due to the aforementioned service enhancements.

BFA Attachment G is the 2013-2014 Financial Summary of the proposed members' affiliated nursing homes. The following is noted with respect to these affiliated nursing homes:

- All facilities had positive income from the operations for 2014, with the exception of Riverside Center for Rehab & Nursing and Vestal Park Rehab & Nursing Center.
- All facilities generated positive income from operations as of September 30, 2015, with the exception of Vestal Park Rehab & Nursing Center.
- Beech Tree Center for Rehab & Nursing had a negative assets position for 2014 due to higher liabilities, which has since been reduced. The facility had a positive net asset position as of September 30, 2015.
- Bridgewater Center for Rehab and Nursing had a negative working capital position in 2014 due to a large account payable balance between the facility and the related party. The account payable will be moved to long-term liabilities, which will create a positive working capital position. The facility expects that the account payable balance will return to normal level by the end of 2015. The facility had a negative working capital position of \$121,849 as of September 30, 2015.
- Highland Park Rehab & Nursing had a negative assets position during the period due to higher liabilities. The facility expects to reduce liabilities by the end of 2016.
- Riverside Center for Rehab & Nursing had a large negative working capital position primarily due to a related party transaction in the amount of \$3,684,221 in liabilities. The facility expects a significant portion of this liability to be paid down over the upcoming months.
- Vestal Park Rehab & Nursing Center had a negative assets position and a negative income position due to a devastating flood in 2011, causing financial stress as the facility was unfit for use. The facility opened a new site in 2015, which is expected to improve the census and profitability.
- Hudson Park Rehab & Nursing had a negative assets position as the facility was financially troubled for many years. After the current financial turnaround the funds used to stabilize the facility will be returned which will reduce the liabilities.

The applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

**From a financial perspective, contingent approval is recommended.**

## Attachments

BFA Attachment A	Net Worth of Proposed Members, CCRNC, LLC and Kellogg Road Realty Group, LLC
BFA Attachment B	Pre and Post Ownership of the Realty
BFA Attachment C	Proposed Members' Ownership Interest in Affiliated Nursing Home
BFA Attachment D	Financial Summary of Cortland Operating Co, LLC
BFA Attachment E	2014 Certified Financial Statement of Cortland Operating Co, LLC
BFA Attachment F	Pro Forma Balance Sheet, CCRNC, LLC and Kellogg Road Realty Group, LLC
BFA Attachment G	Financial Summary of proposed members' affiliated (RHCF) Entities
BFA Attachment H	Amortization Table



Project # 161091-E
YRNC Operating, LLC d/b/a Yorktown Rehabilitation & Nursing Center

Program: Residential Health Care Facility
Purpose: Establishment

County: Westchester
Acknowledged: February 23, 2016

Executive Summary

Description

YRNC Operating, LLC d/b/a Yorktown Rehabilitation & Nursing Center, a New York limited liability company, requests approval to be established as the operator of Field Home-Holy Comforter, a 125-bed, voluntary not-for-profit, Article 28 residential health care facility (RHCF) located at 2300 Catherine Street, Cortlandt Manor (Westchester County). The facility also operates two respite beds. Upon the change in ownership, the RHCF will transition to a proprietary facility. There will be no change in beds or services provided.

On December 8, 2015, Field Home-Holy Comforter, the current operator of the RHCF, entered into an Asset Purchase Agreement (APA) with YRNC Operating, LLC for the sale and acquisition of the operating interests of the nursing home upon approval by the Public Health and Health Planning Council (PHHPC). The purchase price for the RHCF operations is \$3,000,000. Concurrently, Field Home-Holy Comforter, the real property owner, entered into a Purchase and Sale Agreement (PSA) with YRNC Realty, LLC for the sale and acquisition of the RHCF's real property for \$16,050,000. The transactions contemplated by the APA and PSA will close simultaneously. The applicant will lease the premises from YRNC Realty, LLC. There is a relationship between YRNC Operating, LLC and YRNC Realty, LLC in that the entities have identical ownership.

Proposed ownership of the operations is as follows:

Table with 2 columns: Members and Percentage. Includes Proposed Operator YRNC Operating, LLC and members Ephraim Zagelbaum (50%), Alexander Barth (28%), Yehuda Walden (12%), and Yechiel Zagelbaum (10%).

\* Managing Members

The APA and the PSA reference simultaneous transactions whereby YALR Operating, LLC and YALR Realty, LLC, each with membership identical to YRNC Operating, LLC and YRNC Realty, LLC, respectively, seek to acquire an 85-bed Assisted Living Residence with a 40-bed Assisted Living Program known as The Seabury at Fieldhome. A corresponding application for the change in ownership of the Adult Home is under review by the Department (Project # 3060). In addition, the APA references the sale and acquisition of a licensed children's day care center and social model adult day care program operated by Field Home entities. Those programs are not a part of this application.

The applicant indicated that the seller intends to use the proceeds of the sale transactions to build and operate an independent living campus next door to the current RHCF and Adult Home sites. The to-be-constructed campus will be called Stone Ridge at Fieldhome and will be a look-alike continuing care retirement community. The project is currently on hold until the sale of Field Home-Holy Comforter is completed.

OPCHSM Recommendation  
Contingent Approval

Need Summary

There will be no changes to beds or services at this facility. Field Home-Holy Comforter's occupancy was 93.0% in 2012, 80.2% in 2013, and 94.9% in 2014. As of April 5, 2016 occupancy is 97.6% with three vacant beds.

Program Summary

This application proposes to establish YRNC Operating as the new operator of the 125-bed residential health care facility located at 2300 Catherine Street, Cortlandt Manor currently operated as Field Home-Holy Comforter. The facility will be operated as Yorktown Rehabilitation and Nursing Center as a result of this transaction.

No negative information has been received concerning the character and competence of the proposed applicants identified as new members. No changes in the program or physical environment are proposed in this application. The character and competence review indicates the applicants have met the standard to provide

a substantially consistent high level of care as set forth in Public Health Law §2801-a (3).

Financial Summary

The total purchase price for the RHCF's operating and real property interests is \$19,050,000. YRNC Operating, LLC will acquire the operations for \$3,000,000 and YRNC Realty, LLC will acquire the real property for \$16,050,000. Financing will be met with cash equity of \$1,400,000 from the members, apportioned equal to their ownership percentage, and a \$17,650,000 bank loan at 4% interest for a 5-year term, with a borrower's option to extend for an additional 5-year term, and a 25-year amortization period. Ephraim Zigelbaum has provided an affidavit to fund the balloon payment if acceptable terms are not available at the time of refinancing. The applicant plans to look into the option of a HUD-insured loan within several years of PHHPC approval. There are no project costs associated with this proposal. The projected budget is:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$16,470,448	\$16,470,448
Expenses	<u>\$16,469,572</u>	<u>\$16,147,548</u>
Gain/(Loss)	\$876	\$322,900

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of an executed permanent mortgage for the project provided from a recognized lending institution at an interest rate acceptable to the Department of Health. Included with the submission must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]
2. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
3. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
4. Submission of a plan to continue to enhance access to Medicaid residents. At a minimum, the plan should include, but not necessarily be limited to, ways in which the facility will:
  - a. Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program
  - b. Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility
  - c. Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy. [RNR]
5. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the plan. These reports should include, but not be limited to:
  - a. Describing how the applicant reached out to hospital discharge planners to make them aware of the facility's Medicaid Access Program
  - b. Indicating that the applicant communicated with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility
  - c. Identifying the community resources that serve the low-income and frail elderly population that have used, or may eventually use, the nursing facility, and confirming they were informed about the facility's Medicaid Access policy
  - d. Documentation pertaining to the number of referrals and the number of Medicaid admissions
  - e. Other factors as determined by the applicant to be pertinent [RNR]

**Approval conditional upon:**

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Within two years from the date of council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average as prescribed by the related contingency. Once the Medicaid patient admissions standard is reached, the facility shall not reduce its proportion of Medicaid patient admissions below the 75 percent standard unless and until the applicant, in writing, requests the approval of the Department to adjust the 75 percent standard and the Department's written approval is obtained. [RNR]
3. Submission of annual reports to the Department for at least two years demonstrating substantial progress with the implementation of the facility's Medicaid Access Plan as prescribed by the related contingency. Reports will be due within 30 days of the conclusion of each year of operation as identified by the Effective Date on the Operating Certificate issued at project completion. For example, if the Operating Certificate Effective Date is June 15, 2017, the first report is due to the Department no later than July 15, 2018. The Department reserves the right to require continued reporting beyond the two year period. [RNR]

Council Action Date  
**June 9, 2016**

# Need Analysis

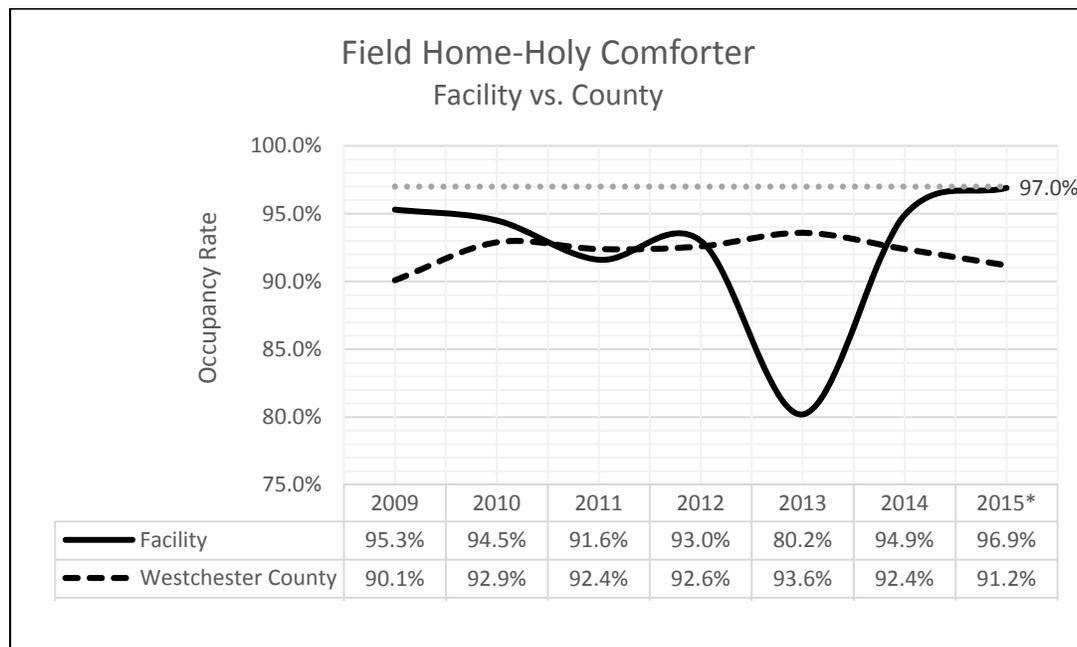
## Analysis

There is currently a need for 498 beds in Westchester County as indicated in the following table:

### RHCF Need – Westchester County

2016 Projected Need	6,716
Current Beds	6,066
Beds Under Construction	152
Total Resources	6,218
Unmet Need	498

The overall occupancy for Westchester County was 92.4% for 2014 as indicated in the following chart:



\* unaudited; facility reported data

The facility submitted a limited CON to decertify 75 beds through a phased sequence that took place between January, 2013 and November, 2013. It is assumed that the facility's low occupancy in 2013 can be attributed to this decertification. The facility's overall occupancy for 2016 is 97.0% and is expected to continue with approval of this application.

## Access

Regulations indicate that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for the long term care planning area in which the applicant facility is located. Such planning area percentage shall not include residential health care facilities that have an average length of stay 30 days or fewer. If there are four or fewer residential health care facilities in the planning area, the applicable standard for a planning area shall be 75% of the planning area percentage of Medicaid admissions, or of the Health Systems Agency area Medicaid admissions percentage, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patient's admissions is at least 75% of the planning area percentage or the Health Systems Agency percentage, whichever is applicable.

Field Home-Holy Comforter's Medicaid admissions of 4.8% in 2013 did not exceed Westchester County's 75% rate of 21.5%. Field Home-Holy Comforter's Medicaid admissions of 57.9% in 2014 exceeded Westchester County's 75% rates of 18.8%.

**Conclusion**

Contingent approval is recommended given the facility's occupancy since the 2013 reduction of beds from 200 to 125.

**Recommendation**

**From a need perspective, contingent approval is recommended.**

<b>Program Analysis</b>
-------------------------

**Facility Information**

	Existing	Proposed
Facility Name	Field Home-Holy Comforter	Yorktown Rehabilitation and Nursing Center
Address	2300 Catherine Street Cortlandt Manor, NY 10567	Same
RHCF Capacity	125	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Not-for-profit Corporation	Limited Liability Company
Class of Operator	Voluntary	Proprietary
Operator	Field Home-Holy Comforter	YRNC Operating, LLC d/b/a Yorktown Rehabilitation and Nursing Center  Members: * Ephraim Zigelbaum 50.0% * Alexander Barth 28.0% * Yahudah Walden 12.0% Yechiel Zigelbaum 10.0%  * <i>Managing Members</i>

**Character and Competence - Background**

**Facilities Reviewed**

Nursing Homes

Tarrytown Hall Care Center	04/2008 to present
Alpine Rehabilitation and Nursing Center	07/2009 to present
Norwich Rehabilitation and Nursing Center	01/2011 to present
Highland Rehabilitation and Nursing Center	02/2013 to present
Utica Rehabilitation and Nursing Center	02/2015 to present
Plattsburgh Rehabilitation and Nursing Center	01/2016 to present
Auburn Rehabilitation and Nursing Center	02/2016 to present
Sodus Rehabilitation and Nursing Center	02/2016 to present

Massachusetts Nursing Homes

Cambridge Rehabilitation and Nursing Center	09/2010 to present
Medford Rehabilitation and Nursing Center	04/2012 to present
Rehabilitation and Nursing Center at Everett	01/2013 to present

## Individual Background Review

**Ephraim Zagelbaum** is a licensed New York State nursing home administrator and is considered to be in good standing. Mr. Zagelbaum has been the President/Chief Executive Officer at Personal Healthcare Management LLC since December 2012, a company administering business office functions for health facilities located in Tarrytown, New York. He was previously employed as the Administrator of Record at Windsor Park Nursing from 2004 to 2012. Mr. Zagelbaum discloses the following health facility ownership interests:

Alpine Rehabilitation and Nursing Center [80%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [50%]	01/2011 to present
Tarrytown Hall Care Center [43%]	04/2008 to present
Highland Rehabilitation and Nursing Center [45%]	02/2013 to present
Plattsburgh Rehabilitation and Nursing Center [50%]	01/2016 to present
Auburn Rehabilitation and Nursing Center [50%]	02/2016 to present
Sodus Rehabilitation and Nursing Center [50%]	02/2016 to present
Cambridge Rehabilitation and Nursing Center (MA)	09/2010 to present
Medford Rehabilitation and Nursing Center (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett (MA)	01/2013 to present

**Alexander Barth** is a licensed New York State nursing home administrator and is considered to be in good standing. He also holds an EMT license, which is considered to be in good standing. Mr. Barth has been a managing partner at Personal Healthcare Management LLC since January 2013, a company administering business office functions for health facilities located in Tarrytown, New York. Previously he was employed as Administrator of Record at Tarrytown Hall Care Center from 2007 to 2012. Mr. Barth discloses the following health facility ownership interests:

Alpine Rehabilitation and Nursing Center [5%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [15%]	01/2011 to present
Tarrytown Hall Care Center [5%]	04/2008 to present
Highland Rehabilitation and Nursing Center [20%]	02/2013 to present
Plattsburgh Rehabilitation and Nursing Center [30%]	01/2016 to present
Auburn Rehabilitation and Nursing Center [30%]	02/2016 to present
Sodus Rehabilitation and Nursing Center [30%]	02/2016 to present
Cambridge Rehabilitation and Nursing Center (MA)	09/2010 to present
Medford Rehabilitation and Nursing Center (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett (MA)	01/2013 to present

**Yehudah Walden** has been a managing member at Personal Healthcare Management LLC since 2010, a company administering business office functions for health facilities located in Tarrytown, New York. Mr. Walden discloses the following health facility ownership interests:

Highland Rehabilitation and Nursing Center [5%]	02/2013 to present
Plattsburgh Rehabilitation and Nursing Center [20%]	01/2016 to present
Auburn Rehabilitation and Nursing Center [20%]	02/2016 to present
Sodus Rehabilitation and Nursing Center [20%]	02/2016 to present
Cambridge Rehabilitation and Nursing Center (MA)	09/2010 to present
Medford Rehabilitation and Nursing Center (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett (MA)	01/2013 to present

**Yeziel Zagelbaum** has been a pediatrician in private practice in Brooklyn, NY since 2002. Dr. Zagelbaum is a New York State Physician with license in good standing; and current certification in general pediatrics. Mr. Zagelbaum discloses the following health facility ownership interests:

Alpine Rehabilitation and Nursing Center [5%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [15%]	01/2011 to present
Tarrytown Hall Care Center [13.5%]	04/2008 to present
Highland Rehabilitation & Nursing Center [10%]	02/2013 to present
Cambridge Rehabilitation and Nursing Center (MA)	09/2010 to present
Medford Rehabilitation & Nursing Center (MA)	04/2012 to present
Rehab & Nursing Center at Everett (MA)	01/2013 to present

## Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants.

Ephraim Zagelbaum, Alexander Barth, Yehudah Walden, and Yechiel Zagelbaum were approved by the Public Health and Health Planning Council on February 12, 2015 to be established as operators of Delhi Nursing & Rehabilitation Center as members of DRNC Operating, LLC (CON# 142195). This ownership interest was not included in the Character and Competence – Background because the establishment of the facility has not been finalized.

A review of operations for Alpine Rehabilitation and Nursing Center, Norwich Rehabilitation and Nursing Center, Tarrytown Hall Care Center, Highland Rehabilitation and Nursing Center, Auburn Rehabilitation and Nursing Center, Sodus Rehabilitation and Nursing Center for the periods identified above revealed that there were no enforcements.

A review of operations for Plattsburgh Rehabilitation and Nursing Center revealed that the facility was issued an enforcement for §415.12 Quality of Care- Highest Practicable Potential based on a survey that occurred on 2/29/16. A review of the details from the complaint survey showed that the enforcement is based on events that occurred prior to the change in ownership on 1/1/16. The enforcement is not being considered in the character and competence review of the proposed operators since events leading to the enforcement occurred at the end of the previous management and prior to the current operator's legal and programmatic takeover of operational control of the facility.

An affidavit submitted by the applicant for Medford Rehabilitation and Nursing Center, Massachusetts revealed that the facility paid an enforcement of \$96,785 for findings on 2/27/13. Deficiencies were cited under §483.25 – Quality of Care with a scope and severity of L. Since there were no additional enforcements, the requirements for approval as set forth in Public Health Law §2801-1(3) have been met.

An affidavit submitted by the applicant for Rehabilitation and Nursing Center at Everett, Massachusetts revealed that the facility paid an enforcement of \$49,400 for findings on 6/4/13. Deficiencies were cited under §483.10(b)(3) (d)(2) – Informed of Health Status / Medical Condition with a scope and severity of G. Since there were no additional enforcements, the requirements for approval as set forth in Public Health Law §2801-1(3) have been met.

An affidavit submitted by the applicant for Cambridge Rehabilitation and Nursing Center, Massachusetts for the period identified above revealed that the facility was fined \$2,275 pursuant to surveillance findings on 1/12/15. Deficiencies were cited under §483.20(k)(3)(ii) – Qualifications of Facility Staff with a scope and severity of G. Since there were no additional enforcements, the requirements for approval as set forth in Public Health Law §2801-1(3) have been met.

A review of the Massachusetts Health and Human Services website for Cambridge Rehabilitation and Nursing Center lists G and F level citations for substandard quality of care on 3/29/16 and 9/30/13. The applicant provided the following explanations for the citations:

- The applicant indicated the substandard deficiency on 3/29/16 was a result of inconsistent hot water temperatures throughout the building. The applicant further stated that due to the age of the building temperatures in areas farthest from the boiler room tend to be a few degrees cooler. The operator is in the process of installing a hot water re-circulator pump to address this issue. This was cited at a scope and severity level of G.
- The applicant indicated the facility was in the final stages of an extermination treatment for an insect issue when the 9/30/13 substandard deficiency was issued. The treatment was successful and there have been no subsequent insect issues at the facility. This was cited at a level of F.

A review of the Massachusetts Health and Human Services website for Medford Rehabilitation and Nursing Center revealed no additional information.

A review of the Massachusetts Health and Human Services website for Rehabilitation and Nursing Center at Everett lists that a denial of payments for new admission was imposed on 11/27/15. However, communication with the applicant reveals that the operator never received any notice of a denial of payment and a denial of payment was never enforced.

Quality Review

Provider Name	Overall	Health Inspection	MDS Quality Measures
Field Home - Holy Comforter	*****	*****	****
Tarrytown Hall Care Center	***	***	****
Alpine Rehabilitation And Nursing Center	*	**	*
Norwich Rehabilitation & Nursing Center	**	**	****
Highland Rehabilitation And Nursing Center	***	****	***
Utica Rehabilitation & Nursing Center	*	*	*
Plattsburgh Rehabilitation And Nursing Center	*	**	*
Auburn Nursing Home	**	*	***
Blossom View Nursing Home (Sodus Rehabilitation & Nursing Center)	**	**	****
Cambridge Rehabilitation & Nursing Center	**	*	*****
Medford Rehabilitation And Nursing Center	***	**	**
Rehabilitation & Nursing Center At Everett (The)	**	*	*****

Above ratings are based on CMS Provider Rating dated 3/1/2016

Project Review

This application proposes to establish YRNC Operating as the new operator of the 125-bed residential health care facility located at 2300 Catherine Street, Cortlandt Manor currently operated as Field Home-Holy Comforter. The facility will be operated as Yorktown Rehabilitation and Nursing Center as a result of this transaction. The proposed operating group has been approved by the PHHPC over the past few years to acquire numerous RHCs across the State and re-establish the former Countryside Care Center in Delaware County.

No negative information has been received concerning the character and competence of the proposed applicants identified as new members. No changes in the program or physical environment are proposed in this application.

Recommendation

**From a programmatic perspective, approval is recommended.**

**Financial Analysis**

Asset Purchase Agreement (Operations)

The applicant has submitted an executed APA for the operating interests of the RHCF. The agreement will be effectuated upon PHHPC approval of this CON. The terms of the agreement are summarized below:

Date:	December 8, 2015
Seller:	Field Home-Holy Comforter
Buyer:	YRNC Operating, LLC
Purchased Assets:	All of the following items associated with the operations of the business: all tangible assets, telephone, fax numbers, websites domain names, manufactures' and vendors' warranties, seller's rights in any agreements, seller's book and

	records, seller's licenses, certificates and approvals to do business, resident funds held in trust in connection with the nursing home, Medicaid and Medicare provider numbers and all goodwill.
Excluded Assets:	All of the following items associated with the operations of the business: All seller's cash, cash equivalents, bank deposits or similar cash items, business trade names, service/trademarks and logos insurance policies accounts receivable generated prior to the closing date, deposits or prepaid charges and expenses, any rights to refunds, settlements and retroactive adjustments for periods ending on or prior to the closing date, and any personal, tangible and intangible property identified by the Seller.
Assumed Liabilities:	None
Excluded Liabilities:	N/A
Purchase Price:	\$3,000,000
Payment of Purchase Price:	\$1,400,000 placed in escrow account as of 12/8/2015; \$1,600,000 due at Closing

#### Purchase and Sale Agreement (Real Property)

The applicant has submitted an executed PSA for the purchase of the RHCF's real property by YRNC Realty, LLC. The agreement will become effectuated upon PHHPC approval of this CON and will close concurrent with the transaction contemplated by the APA. The terms of the agreement are summarized below:

Date:	December 8, 2015
Seller:	Field Home-Holy Comforter
Buyer:	YRNC Realty, LLC
Purchased Assets:	All seller's right, title and interest in and to the real property, buildings and improvements located at 2300 Catherine Street, Cortlandt Manor, NY and commonly known as Field Home –Holy Comforter
Excluded Assets:	None
Assumed Liabilities:	None
Purchase Price:	\$16,050,000
Payment of Purchase Price:	Due at closing

The purchase price of the operations and real estate is proposed to be satisfied as follows:

Operations - Equity from Members	\$1,400,000
Real Estate/Operations (Mortgage, 10 years, 25-year amortization, 4% interest)	<u>\$17,650,000</u>
Total	\$19,050,000

M&T Bank has provided a letter of interest for the financing at 4% interest for a 5-year term with a borrower's option to extend for an additional 5-year term, and repayment based on a 25-year amortization period. Applicant member Ephraim Zigelbaum provided an affidavit to fund the balloon payment for the operating and realty financing if terms acceptable to the Department are not available at the time of refinancing. The applicant intends to look into the option of a HUD-insured loan two to three years after PHHPC approval.

BFA Attachment A is the net worth summary for the proposed members of YRNC Operating, LLC and YRNC Realty, LLC, which shows sufficient assets to cover the equity requirements. Disproportionate share affidavits have been provided confirming the members' willingness to contribute personal resources to fulfill the equity requirements for the project.

The applicant submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the

Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. Currently, the facility has no outstanding Medicaid liabilities.

#### Lease Agreement

The applicant submitted an executed lease agreement. The terms are summarized below:

Date:	January 25, 2016
Premises:	125-bed RHCf with 2 respite beds located at 2300 Catherine Street, Cortlandt, NY
Lessor:	YRNC Realty, LLC
Lessee:	YRNC Operating, LLC
Term:	10 years with ten (10) 1 year renewals
Rental:	\$1,117,958 annually (\$93,163.17 monthly) [covers the debt service]
Provisions:	Lessee pays for all taxes, utilities, insurance and maintenance fees (Triple Net)

The lease arrangement is a non-arm's length agreement. The applicant has submitted an affidavit attesting to the relationship between the landlord and tenant in that there is common ownership between the entities.

With the change from a voluntary to a proprietary facility, the methodology for capital cost reimbursement would change in accordance with the Title 10 of the NYCRR, Part 86.2. While the capital reimbursement structure for proprietary and voluntary NH's differ, we do not believe that there will be a significant change in the per diem capital reimbursement.

#### Operating Budget

The following is a summary of the submitted operating budget, presented in 2016 dollars, for the current year and years one and three subsequent to the change in ownership:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
Revenues						
Medicaid	\$242.87	\$6,304,309	\$240.43	\$6,889,420	\$240.43	\$6,889,420
Medicare	\$584.56	\$8,532,282	\$632.44	\$7,461,545	\$632.44	\$7,461,545
Private Pay	\$406.72	\$1,107,104	\$439.95	\$1,697,771	\$439.95	\$1,697,771
Other Revenues		\$541,783		\$421,712		\$421,712
Total		\$16,485,478		\$16,470,448		\$16,470,448
Expenses						
Operating	\$415.85	\$17,996,114	\$346.44	\$15,351,614	\$339.18	\$15,029,590
Capital	<u>\$18.79</u>	<u>\$813,059</u>	<u>\$25.23</u>	<u>\$1,117,958</u>	<u>\$25.23</u>	<u>\$1,117,958</u>
Total	\$434.63	\$18,809,173	\$371.67	\$16,469,572	\$364.41	\$16,147,548
Net Income/loss		<u>(\$2,323,695)</u>		<u>\$876</u>		<u>\$322,900</u>
Utilization-Pt days		43,276		44,312		44,312
Occupancy		94.85%		97.12%		97.12%

The following is noted with respect to the submitted operating budget:

- Medicaid revenue is based on the facility's current Medicaid FFS rate, which remains the benchmark rate for payments by Medicaid Managed Care Plans through to April 2018. The facility projected the FFS rate into Year Three due to lack of historical experience with Medicaid managed care (MMC) reimbursement, but anticipates remaining profitable if the MMC rate is no more than 5% lower than the current rate.

- Utilization by payor source for both years one and three is expected as follows:
 

Medicaid FFS	64.67%
Medicare FFS	26.62%
Private Pay	8.71%
- The facility's 2014 utilization was 94.9%, an increase of 16.4% from their 2013 utilization of 78.5%. The increase was due to the facility's decertification of 75 beds over the course of 2013 to bring the facility in line with the need for skilled nursing home beds in the area.
- As of April 5, 2016, the facility's utilization was 97%. The applicant projected Year One utilization will increase slightly to 97.12% due to the facility's ongoing programs to improve their relationship with the community, local hospitals and local physicians.
- Breakeven utilization is projected at approximately 97.12% for year one and 95.17% for Year Three.

#### Capability and Feasibility

YRNC Operating, LLC will acquire the RHCF's operating interest for \$3,000,000 and YRNC Realty, LLC will acquire the RHCF's real property for \$16,050,000 at the above stated terms. M&T Bank has provided a letter of interest for the financing. There are no project costs associated with this proposal.

Working capital requirements are estimated at \$2,744,929 based on two months of year one expenses. The proposed members will provide \$1,372,465 in equity equivalent to their ownership percentages. The remaining \$1,372,464 will be provided through a working capital loan at 4% interest with a five-year term. A letter of interest has been provided by M&T Bank for the proposed working capital financing. Affidavits have been provided confirming the members' willingness to contribute resources disproportionate to their ownership interest to fulfill the equity requirements for the project. BFA Attachment A is the net worth statement for the proposed owners, which shows significant resources available to cover both the purchase price and the working capital equity requirements for this project.

BFA Attachment B is the pro-forma balance sheet of YRNC Operating, LLC and YRNC Realty, LLC, which indicates a positive members' equity of \$2,772,465 as of the first day of operations for the facility and a breakeven members' equity as of day one of operations for the reality entity.

The submitted budget indicates a net income of \$876 and \$322,900 for Years One and Three, respectively. The submitted budget appears reasonable.

A transition of nursing home (NH) residents to Medicaid managed care is currently being implemented statewide. Under the managed care construct, Managed Care Organizations (MCOs) will negotiate payment rates directly with NH providers. A department policy, as described in the "Transition of Nursing Home Benefit and Population into Managed Care Policy Paper," provided guidance requiring MCOs to pay the benchmark Medicaid FFS rate, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. As a result, the benchmark FFS rate remains a viable basis for assessing Medicaid NH revenues through the transition period.

BFA Attachment C is the 2013 and 2014 certified and the internal financial statements for Field Home-Holy Comforter as of December 31, 2015. The 2013 and 2014 certified statements show that the facility generated an average operating loss of \$2,204,662, and had an average positive net asset position and an average negative working capital position for the period shown. The 2015 internal financial statements show that the entity generated an operating loss of \$1,250,660, and had a positive net asset position and negative working capital position for the period shown. The loss and the negative working capital were due to excess expenses in certain categories such as dietary, supplies and contractual services. To rectify this, the proposed members will implement cost-cutting measures to limit or eliminate outsourced services, add programs to serve a more medically complex population, and rehab the facility to provide a better resident experience.

BFA Attachment E is the financial summaries of the members' affiliated nursing homes, which shows that the facilities have maintained a positive net asset position, negative working capital position and a positive income from operations for the period shown. Previous owner operational inefficiencies contributed to prior period negative working capital positions and net losses for the related facilities. The inefficiencies were addressed and rectified on a going forward basis by the current owners. No financial

statements for Utica Rehab & Nursing Center and Plattsburgh Rehab & Nursing Center are provided as the applicant only recently acquired the facilities.

Subject to the noted contingencies, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

**From a financial perspective, contingent approval is recommended.**

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## Attachments

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- BFA Attachment A Net Worth of Proposed Members of YRNC Operating, LLC d/b/a Yorktown Rehabilitation & Nursing Center and YRNC Realty, LLC
- BFA Attachment B Pro-forma Balance Sheets for YRNC Operating, LLC d/b/a Yorktown Rehabilitation & Nursing Center and YRNC Realty, LLC
- BFA Attachment C 2013 and 2014 certified and the internal financial statements as of December 31, 2015 for Field Home-Holy Comforter
- BFA Attachment D Ownership interest of the proposed members' of YRNC Operating, LLC d/b/a Yorktown Rehabilitation affiliated Nursing Homes
- BFA Attachment E 2013-2015 Financial Summaries of the proposed members' of YRNC Operating, LLC d/b/a Yorktown Rehabilitation affiliated Nursing Homes



**Project # 161223-E  
St. Margaret's Center**

**Program:** Residential Health Care Facility  
**Purpose:** Establishment

**County:** Albany  
**Acknowledged:** April 4, 2016

**Executive Summary**

**Description**

Center for Disability Services Holding Corporation (CDS) is requesting approval to disestablish St. Margaret's House and Hospital for Babies (SMHHB) as a co-operator of St. Margaret's Center, a 92-bed voluntary not-for-profit, Article 28 Residential Health Care Facility (RHCF) located at 27 Hackett Boulevard, Albany (Albany County). Upon approval of this application, SMHHB will merge into CDS and cease to exist as an entity. CDS will take title and ownership of all assets owned by SMHHB, and CDC will become the sole operator of the RHCF.

Over the past several years, SMHHB has struggled financially and CDS has been reluctant to take on additional liability without having full control of St. Margaret's Center. Based on the stressed financial position of SMHHB, financial institutions require CDS to assume full responsibility for any liability associated with loans or guarantees made to the RHCF. By assuming full control of St. Margaret's Center, CDS will be able to access capital more easily. Currently, CDS has an administrative services agreement with St. Margaret's Center to provide certain administrative services. This agreement will be terminated upon completion of the merger.

The Board of Directors of CDS, the surviving corporation, will be identical before and after the merger. This application does not propose any

change to the certified services, the bed count, the name of the facility or the RHCF management team. Also, there are no capital costs and no projected incremental change in staffing, operating expense or operating revenues associated with this application.

OPCHSM Recommendation  
Contingent Approval

Need Summary  
There is no Need review for this project.

Program Summary  
No negative information has been received concerning the character and competence of the Corporations. All health care facilities are in substantial compliance with all rules and regulations. The Board of Directors for St. Margaret's Center will not change as a result of this transaction. The removal of the active parent and co-operator arrangement will have positive impact on St. Margaret's Center by allowing the Center for Disability Services to access funds needed to make capital improvements to the facility.

Financial Summary  
There is no capital cost and no projected incremental change in staffing, operating expense or operating revenues associated with this application.

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. Submission of an executed Agreement and Plan of Merger, acceptable to the Department of Health. [BFA]

**Approval conditional upon:**

1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Submission of a photocopy of the fully executed Agreement and Plan of Merger, acceptable to the Department. [CSL]
3. Submission of a photocopy of the Certificate of Merger and Consolidation filed with the New York State Secretary of State, acceptable to the Department. [CSL]

Council Action Date

**June 9, 2016**

## Program Analysis

### Program Description

This application is being filed to remove St. Margaret's House and Hospital for Babies as the active parent and co-operator of St. Margaret's Center. Upon approval of this application St Margaret's House and Hospital for Babies will be merged into the Center for Disability Services Holding Corporation (CDS). The merger of the two entities will not result in a change to the Board of Directors for CDS or St. Margaret's Center. The transaction will result in CDS having full control of the RHCF, enabling it to assume full responsibility for liabilities and easing access to capital.

### Facility Information

	Existing	Proposed
<b>Facility Name</b>	St. Margaret's Center	Same
<b>Address</b>	27 Hackett Boulevard Albany, NY 12208	Same
<b>RHCF Capacity</b>	36 Pediatric Non-vent 36 Pediatric Vent <u>20 Young Adult</u> 92 Total Pediatric/Young Adult	Same
<b>ADHC Program Capacity</b>	None	None
<b>Type of Operator</b>	Not-for-profit corporation	Same
<b>Class of Operator</b>	Voluntary	Same
<b>Operator</b>	Center for Disability Services Holding Corporation  <u>Active Parent/Co-operator</u> St Margaret's House and Hospital for Babies	Center for Disability Services Holding Corporation

### Character and Competence

The following corporations were reviewed:

- Center for Disability Services Holding Corporation
- St. Margaret's House and Hospital for Babies
- St. Margaret's Center

No negative information has been received concerning the character and competence of the above corporations. All corporations were found to be in current compliance.

### Project Review

This application is being filed to remove St Margaret's House and Hospital for Babies (SMHHB) as the active parent and co-operator of St. Margaret's Center. Upon approval of this application St. Margaret's House and Hospital for Babies will be merged into the CDS. The merger of the two entities will not result in a change to the Board of Directors of CDS or St. Margaret's Center. The transaction will result in CDS having full control of the RHCF, enabling it to assume full responsibility for liabilities and easing access to capital.

Since 2000, CDS and SMHHB have been the approved co-operators of St. Margaret's Center. CDS and SMHHB were granted co-operator status pursuant to an Order of the New York State Supreme Court. Based on the Court-approved co-operator arrangement, CDS is the guarantor of SMHHB's financial liabilities, and CDS was granted certain powers concerning the operation of St. Margaret's Center.

While St. Margaret's is operating at full capacity, the recent approval of additional pediatric beds in the lower Hudson valley is anticipated to create increased competition for pediatric RHCF residents. St. Margaret's was recently approved to convert 20 pediatric non-vent beds to pediatric vent beds. CDS has been reluctant to take on additional liability without having full control of St. Margaret's Center.

Disestablishing SMHHB as a co-operator of St. Margaret's Center will vest CDS with full control of the RHCF, enabling it to assume full responsibility for the RHCF liabilities and more easily access capital.

#### Conclusion

No negative information has been received concerning the character and competence of the Corporations. All health care facilities are in substantial compliance with all rules and regulations. The Board of Directors for St. Margaret's Center will not change as a result of this transaction. The removal of the active parent and co-operator arrangement will have positive impact on St. Margaret's Center by allowing Center for the Disability Services Holding Corporation to access funds needed to make capital improvements to the facility.

#### Recommendation

**From a programmatic perspective, approval is recommended.**

## Financial Analysis

#### Agreement and Plan of Merger

The applicant has submitted a draft Agreement and Plan of Merger, summarized below:

Non-Surviving Corporation:	Saint Margaret's House and Hospital for Babies (SMHHB)
Surviving Corporation:	Center for Disability Services Holding Corporation (CDS)
Agreement:	On the effective date of the merger, the separate existence of SMHHB and CDS shall cease and all rights, privileges, powers and franchises and all the property and assets of every kind shall be vested and be held and enjoyed by CDS. This includes all of the estates and interests of every kind of SMHHB, including all debts due on whatever account, shall be the property of the CDS. SMHHB will cease to exist.
Payments/Fees:	\$0

There will be no change to the RHCF's certified services, bed count, facility name, or management team. There are no capital costs and no projected change in staffing, operating expenses or operating revenues associated with this application.

#### Capability and Feasibility

There are no project costs or working capital requirements associated with this application.

BFA Attachment A is a summary of the 2014 through 2015 combined financial statements of Center for Disability Services Holding Corporation which includes St. Margaret's Center. As shown, CDS had an average positive working capital position and an average positive net asset position for the period. Also, the facility achieved an average positive net income from 2014 through 2015.

The applicant has demonstrated the capability to proceed in a financially feasible manner.

#### Recommendation

**From a financial perspective, contingent approval is recommended.**

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## Attachments

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- BFA Attachment A 2014 - 2015 Financial Summary of Center for Disability Services Holding Corporation and St Margaret's Center
- BFA Attachment B Organizational Charts – Pre-merger and Post-Merger

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Hamilton Home Care, LLC d/b/a Hamilton Home Care  
Address: Manlius  
County: Onondaga  
Structure: Limited Liability Company  
Application Number: 2322L

Description of Project:

Hamilton Home Care, LLC, a limited liability company, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

Gregory P. Collins d/b/a Hamilton Home Care was previously approved as a home care services agency by the Public Health Council at its June 25, 1999 meeting and subsequently licensed as 0824L001. Hamilton Home Care Agency serves the residents of the Assisted Living Program (ALP) in Manlius Home for Adults. The applicant has submitted a Certificate of Need application for an identical change in membership of the Adult Home.

This application was submitted to transfer the ownership of this LHCSA due to the death of Gregory P. Collis. The heirs to the Estate of Gregory Collis are the members of Hamilton Home Care, LLC.

Susan McSweeney is currently the court designated administrator of the estate and has been serving as the DOH approved Temporary Operator of the ACFs and home care agencies.

The members of Hamilton Home Care, LLC comprise the following individuals:

Anna C. Bronnenkant, Esq. - 45%  
Assistant Attorney General, Arizona Attorney General

Maria A. Collis – 45%  
Manager/Member/Writer/Producer, Leomark Studios LLC

Susan J. McSweeney – Managing Member – 10%  
Administrator/Manager, Manlius Home for Adults

Affiliations:

- Manlius Home for Adults (2010 – Present)
- Hamilton Manor Home for Adults (2010 – Present)
- Highland Home (Adult Home) (2010 – Present)
- Hamilton Home Care (2010 – Present)
- Hamilton Limited Home Care Services Agency (2010 – Present)
- Highland Limited Home Care Services Agency (2010 – Present)
- Manlius Home Care Services Agency (Limited LHCSA) (2010 – Present)

A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

A Certificate of Good Standing has been received for Anna Bronnenkant.

A seven year review was conducted for the following healthcare facilities:

- Manlius Home for Adults (2010 – Present)
- Manlius Home Care Services Agency (Limited LHCSA) (2010 – Present)
- Hamilton Manor Home for Adults (2010 – Present)
- Highland Home (Adult Home) (2010 – Present)
- Highland Limited Home Care Services Agency (2010 – Present)
- Hamilton Home Care
- Hamilton Limited Home Care Services Agency (2010 – Present)

The information provided by the Division of Home and Community Based Services has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Adult Care Facility Policy and Surveillance unit has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The applicant proposes to serve the residents of the following counties from an office located at 215 East Pleasant Street, Manlius, New York 13104:

Madison                      Onondaga

The applicant proposes to continue to provide the following health care services:

Nursing	Home Health Aide	Speech-Language Pathology
Physical Therapy	Occupational Therapy	Respiratory Therapy

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

Contingency

Submission of any and all information requested by the Division of Legal Affairs, in a form and manner acceptable to the Department.

Recommendation:    Contingent Approval  
Date:                      April 25, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Hamilton Home Care, LLC d/b/a Hamilton Limited Home Care Services Agency  
Address: Hubbardsville  
County: Madison  
Structure: Limited Liability Company  
Application Number: 2322A

Description of Project:

Hamilton Home Care, LLC d/b/a Hamilton Limited Home Care Services Agency, a limited liability company, requests approval for a change in ownership of a limited licensed home care services agency under Article 36 of the Public Health Law.

Gregory P. Collis d/b/a Hamilton Limited Home Care Services Agency was previously approved as a limited licensed home care services agency by the Public Health Council at its June 25, 1999 meeting and subsequently licensed as 0824A003. The applicant has submitted a Certificate of Need application for an identical change in membership of the Adult Home.

This application was submitted to transfer the ownership of this LLHCSA due to the death of Gregory P. Collis. The heirs to the Estate of Gregory Collis are the members of Hamilton Home Care, LLC.

Susan McSweeney is currently the court designated administrator of the estate and has been serving as the DOH approved Temporary Operator of the ACFs and home care agencies.

The proposed members of Hamilton Home Care, LLC d/b/a Hamilton Limited Home Care Services Agency comprises the following individuals:

Anna C. Bronnenkant, Esq. - 45%  
Assistant Attorney General, Arizona Attorney General

Maria A. Collis –45%  
Manager/Member/Writer/Producer, Leomark Studios LLC

Susan J. McSweeney – Managing Member – 10%  
Administrator/Manager, Manlius Home for Adults

Affiliations:

- Manlius Home for Adults (2010 – Present)
- Hamilton Manor Home for Adults (2010 – Present)
- Highland Home (Adult Home) (2010 – Present)
- Hamilton Home Care (2010 – Present)
- Hamilton Limited Home Care Services Agency (2010 – Present)
- Highland Limited Home Care Services Agency (2010 – Present)
- Manlius Home Care Services Agency (Limited LHCSA) (2010 – Present)

A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

A Certificate of Good Standing has been received for Anna Bronnenkant.

A seven year review was conducted for the following healthcare facilities:

- Manlius Home for Adults (2010 – Present)
- Manlius Home Care Services Agency (Limited LHCSA) (2010 – Present)
- Hamilton Manor Home for Adults (2010 – Present)
- Highland Home (Adult Home) (2010 – Present)
- Highland Limited Home Care Services Agency (2010 – Present)
- Hamilton Home Care
- Hamilton Limited Home Care Services Agency (2010 – Present)

The information provided by the Division of Home and Community Based Services has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Adult Care Facility Policy and Surveillance unit has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The applicant proposes to continue to serve the residents of Hamilton Manor Home for Adults in Madison County located at 8196 Green Road, Hubbardsville, New York 13355.

The applicant proposes to provide the following health care services allowed to be delivered by a limited LHCSA: Personal Care, Application of Sterile Dressings by a RN and Administration of Medications by a RN.

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

Contingency

Submission of any and all information requested by the Division of Legal Affairs, in a form and manner acceptable to the Department.

Recommendation: Contingent Approval

Date: April 25, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Senior Solutions Worldwide, Inc. d/b/a Wesley Senior Solutions  
Address: Saratoga Springs  
County: Saratoga  
Structure: Not-For-Profit Corporation  
Application Number: 2509-L

Description of Project:

Senior Solutions Worldwide, Inc. d/b/a Wesley Senior Solutions, a not-for-profit corporation, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

Senior Solutions Worldwide, Inc. d/b/a Senior Solutions Health Care was previously approved as a home care services agency by the Public Health Council at its October 1, 2001 meeting and subsequently licensed 1312L001.

Through a Stock Purchase Agreement, United Methodist Health and Housing, Inc. (UMHH), the sole member of Wesley at Home, Inc., proposes to purchase the shares of Senior Solutions Worldwide, Inc. UMHH will then assign its interest in Senior Solutions Worldwide, Inc. under the Stock Purchase Agreement to Wesley at Home, Inc. Upon approval, Wesley at Home, Inc. will own 100% of the shares of Senior Solutions Worldwide, Inc. which will continue to operate the LHCSA and do business as Wesley Senior Solutions

The Board of Directors of United Methodist Health and Housing, Inc. (UMHH) and Wesley at Home, Inc. are identical and are comprised of the following individuals:

Peggy A. Murphy – President  
Director of HR/FSO/Corporate Security, Espey  
Manufacturing & Electronics

Brendan F. Chudy, Esq. – 1<sup>st</sup> Vice-President  
Senior Manager Legal Affairs, Global Foundries  
US, Inc.

Jon R. Allen – 2<sup>nd</sup> Vice-President  
Consultant/Owner, Performance Matters

Karen S. Martell, Esq. – Secretary  
Partner, Lemery Greisler LLC

Walter W. Sankowski, CPA – Treasurer  
Shareholder, Fredette, Sankowski & Co.

Robert L. Marino  
Retired

Catherine D. Masie  
Owner/Manager, The Masie Center

Beth A. Thayer, CPA  
Self-employed, Beth Thayer, CPA

Elizabeth W. Rovers  
Managing Engineer/Principal-Environmental  
Engineer, C.T. Male Associates

Andrew J. Wise  
Financial, Operations, IT, Adirondack Trust, Co.

Carol H. Shippey, RN  
Retired

Carla R. Williams  
Consultant, O-Connell & Aronowitz

Erica M. Coletti  
Director, Consulting Operations, Blue State  
Solutions

Helen A. Endres, RN  
Retired

A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.



Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: 111 Ensminger Road Operating Company, LLC  
d/b/a Elderwood Home Care at Tonawanda  
Address: Tonawanda  
County: Erie  
Structure: Limited Liability Company  
Application Number: 152199E

Description of Project:

111 Ensminger Road Operating Company, LLC d/b/a Elderwood Home Care at Tonawanda, a limited liability company, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

Braunview Associates, Inc. d/b/a Tonawanda Manor Home Care Services was previously approved by the Public Health and Health Planning Council at its March 13, 2009 meeting and subsequently licensed 1757L001.

This LHCSA will be associated with the assisted living program to be operated by 111 Ensminger Road Operating Company, and will serve the assisted living program residents of Elderwood Assisted Living at Tonawanda.

Through an Asset Purchase Agreement the applicant will purchase all the assets of Braunview Associates, Inc. d/b/a Tonawanda Manor Home Care Services.

The sole member of 111 Ensminger Road Operating Company, LLC is 111 Ensminger Road Operating Holdco, LLC

The members of 111 Ensminger Road Operating Holdco, LLC comprise the following individuals:

Cole Warren – 50%	Jeffrey Rubin – 50%
Partner, Post Acute Partners, LLC	Partner, Post Acute Partners, LLC

A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

A seven (7) year review of the operations of the following facilities/agencies were performed as part of this review (unless otherwise noted):

Nursing Homes

- Elderwood at Hamburg (07/2013 to present)
- Elderwood at Liverpool (07/2013 to present)
- Elderwood at Amherst (07/2013 to present)
- Elderwood at Grand Island (07/2013 to present)
- Elderwood at Lancaster (07/2013 to present)
- Elderwood at Cheektowaga (07/2013 to present)
- Elderwood at Williamsville (07/2013 to present)
- Elderwood at Waverly (07/2013 to present)
- Elderwood at Wheatfield (07/2013 to present)

Adult Homes

- Elderwood Village at Williamsville (07/2013 to present)
- Elderwood Assisted Living at Wheatfield (07/2013 to present)
- Elderwood Assisted Living at West Seneca (07/2013 to present)
- Elderwood Assisted Living at Cheektowaga (07/2013 to present)
- Elderwood Assisted Living at Hamburg (07/2013 to present)
- Elderwood Assisted Living at Waverly (07/2013 to present)

### Licensed Home Care Agencies

- Elderwood Assisted Living at West Seneca (07/2013 to present)
- Elderwood Assisted Living at Cheektowaga (07/2013 to present)
- Elderwood Assisted Living at Hamburg (07/2013 to present)
- Elderwood Assisted Living at Waverly (07/2013 to present)
- Woodmark Pharmacy of New York, LLC (07/2013 to present)

### California

- Care Alternatives of California (07/2005-10/2009)

### Connecticut

- Danbury Health Care Center (07/2005-10/2009)
- Darien Health Care Center (07/2005- 2007)
- Golden Hill Health Care Center (07/2005-10/2009)
- Long Ridge of Stamford (07/2005-10/2009)
- Newington Health Care Center (07/2005-10/2009)
- River Glen Health Care Center (07/2005-10/2009)
- The Highlands Health Care Center (07/2005-10/2009)
- West River Health Care Center (07/2005-10/2009)
- Westport Health Care Center (07/2005-10/2009)
- Wethersfield Health Care Center (07/2005-10/2009)

### Kansas

- Care Alternatives of Kansas (07/2005-10/2009)

### Maryland

- Montgomery Village Health Care Center (07/2005-10/2009)

### Massachusetts

- Brookline Health Care Center (07/2005-10/2009)
- Calvin Coolidge Nursing & Rehab Center (07/2005-10/2009)
- Cedar Hill Health Care Center (07/2005-10/2009)
- Concord Health Care Center (07/2005-10/2009)
- Essex Park Rehabilitation & Nursing Center (07/2005-10/2009)
- Holyoke Health Care Center (07/2005-10/2009)
- Lexington Health Care Center (07/2005-10/2009)
- Lowell Health Care Center (07/2005-10/2009)
- Milbury Health Care Center (07/2005-10/2009)
- New Bedford Health Care Center (07/2005-10/2009)
- Newton Health Care Center (07/2005-10/2009)
- Peabody Glen Health Care Center (07/2005-10/2009)
- Redstone Health Care Center (07/2005-10/2009)
- Weymouth Health Care Center (07/2005-10/2009)
- Wilmington Health Care Center (07/2005-10/2009)

### Michigan

- Grand Blanc Rehabilitation & Nursing Center (10/2006-10/2009)

### Missouri

- Care Alternatives of Missouri (07/2005-10/2009)

### New Jersey

- Bergen Care Home Health (2007-10/2009)
- Bergen Care Personal Touch (2007-10/2009)
- Care Alternatives of New Jersey (07/2005-10/2009)
- Care One at Dunroven (07/2005-10/2009)
- Care One at East Brunswick (07/2005-10/2009)
- Care One at Evesham (07/2005-10/2009)
- Care One at Evesham Assisted Living (10/2007-10/2009)

- Care One at Ewing (07/2005-10/2009)
- Care One at Hamilton (07/2005-10/2009)
- Care One at Holmdel (07/2005-10/2009)
- Care One at Jackson (07/2005-10/2009)
- Care One at King James (07/2005-10/2009)
- Care One at Livingston (09/2005-10/2009)
- Care One at Madison Avenue (07/2005-10/2009)
- Care One at Moorestown (07/2005-10/2009)
- Care One at Morris (07/2005-10/2009)
- Care One at Morris Assisted Living (07/2005-10/2009)
- Care One at Pine Rest (07/2005-10/2009)
- Care One at Raritan Bay MC (07/2005-10/2009)
- Care One Harmony Village at Moorestown (07/2005-10/2009)
- Care One at Teaneck (04/2007-10/2009)
- Care One at The Cupola (07/2005-10/2009)
- Care One at The Highlands (07/2005-10/2009)
- Care One at Valley (07/2005-10/2009)
- Care One at Wall (07/2005-10/2009)
- Care One at Wayne (07/2005-10/2009)
- Care One at Wellington (07/2005-10/2009)
- Ordell Health Care Center (07/2005-10/2009)
- Somerset Valley Rehabilitation and Nursing (10/2006-10/2009)
- South Jersey Health Care Center (07/2005-10/2009)
- Woodcrest Health Care Center (07/2005-10/2009)
- Care Alternatives of New Jersey (07/2005-10/2009)

#### North Carolina

- Blue Ridge Health Care Center (07/2005-10/2009)

#### Ohio

- Bellbrook Health Care Center (07/2005-10/2009)
- The Rehabilitation & Nursing Center at Elm Creek (10/2006-10/2009)
- The Rehabilitation & Nursing Center at Firelands (10/2006-10/2009)
- The Rehabilitation & Nursing Center at Spring Creek (10/2006-10/2009)

#### Pennsylvania

- Presque Isle Rehabilitation and Nursing Center (10/2006-10/2009)
- The Rehab and Nursing Center at Greater Pittsburg (10/2006-10/2009)
- Pediatric Specialty Care at Point Pleasant (02/2011-present)
- Pediatric Specialty Care at Doyleston (02/2011-present)
- Pediatric Specialty Care at Quakertown (02/2011-present)
- Pediatric Specialty Care at Lancaster (02/2011-present)
- Pediatric Specialty Care at Hopewell (02/2011-present)
- Pediatric Specialty Care at Philadelphia (02/2011-present)
- Senior Living at Lancaster (02/2011-present)
- Care Alternatives of Pennsylvania (07/2005-10/2009)

#### Puerto Rico

- Medicare Y Mucho Mas (07/2005-11/2009)

#### Rhode Island

- Chestnut Terrace Rehabilitation and Nursing (02/2014-present)
- Scallop Shell Nursing and Rehabilitation Center (12/2010-present)

#### Virginia

- Colonial Heights Health Care Center (07/2005-10/2009)
- Glenburnie Rehabilitation (07/2005-10/2009)
- Hopewell Health Care Center (07/2005-10/2009)

The Information provided by the Bureau of Quality and Surveillance has indicated that the residential health care facilities reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Division of Adult Care Facilities and Assisted Living Surveillance has indicated that adult care facilities have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services has indicated that the home care agencies have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

A review of the out of state facilities in which the applicants currently hold ownership interests is below:

A review of Chestnut Terrace Rehabilitation and Nursing, and Scallop Shell Nursing and Rehabilitation of Rhode Island for the periods indicated above revealed that a substantially consistent high level of care has been provided since there were no enforcements. This information was obtained from a Rhode Island State Official, as well as the Medicare.gov Nursing Home Compare website.

The applicants have submitted an affidavit regarding the pediatric intermediate care facilities in which they attest to the provision of a substantially consistent high level of care.

The applicant proposes to serve the residents of Erie County from an office located at 111 Ensminger Road, Tonawanda, New York 14150:

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Physical Therapy
Occupational Therapy	Speech-Language Pathology	

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

Contingency

Submission of any and all information requested by the Division of Legal Affairs, in a form and manner acceptable to the Department.

Recommendation: Contingent Approval

Date: March 29, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Helping U Homecare, Inc.  
Address: New York  
County: New York  
Structure: For-Profit Corporation  
Application Number: 152285E

Description of Project:

Helping U Homecare, Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Helping U Homecare, Inc. was previously approved as a home care services agency by the Public Health and Health Planning Council at its February 12, 2015 meeting and subsequently licensed as 2259L001. At that time the name of the corporation was NMC Home Care Agency of NY, Inc. and the sole shareholder was Natalya Chornaya. A corporate name change was approved by the Department of State on November 6, 2015 and the name on the agency's license was subsequently changed.

Helping U Homecare, Inc. has authorized 200 shares of stock, which are solely owned by Polina Mesh.

The Board of Directors of Helping U Homecare, Inc. is comprised of the following individual:

Polina Mesh, HHA, President  
Retired

The New York State Home Care Registry indicates no issues with the certification of the health care professional associated with this application.

A search of the individual named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The applicant proposes to serve the residents of the following counties from an office located at 111 East 125<sup>th</sup> Street, 1<sup>st</sup> Floor, New York, New York 10035:

New York	Kings	Queens
Richmond	Bronx	Nassau

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Respiratory Therapy
Speech-Language Pathology	Audiology	Medical Social Services
Nutrition	Homemaker	Housekeeper
Medical Supplies, Equipment and Appliances		

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

Contingency

Submission of any and all information requested by the Division of Legal Affairs, in a form and manner acceptable to the Department.

Recommendation: Contingent Approval  
Date: March 21, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Focus Rx Pharmacy Services, Inc.  
Address: Holbrook  
County: Suffolk  
Structure: For-Profit Corporation  
Application Number: 152367E

Description of Project:

Focus Rx Pharmacy Services, Inc., a business corporation, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

Home Care Service of Long Island, LLC d/b/a Visiting Angels was previously approved as a home care services agency by the Public Health Council at its May 4, 2007 meeting and subsequently licensed as 1474L001. At that time, the members of Home Care Service of Long Island, LLC were Christopher Nicholson 50% and Glenn Nicholson 50%.

Focus Rx Pharmacy Services, Inc. and Home Care Service of Long Island, LLC d/b/a Visiting Angels entered into an asset purchase agreement which was executed on September 23, 2015.

Focus Rx Pharmacy Services, Inc. has authorized 200 shares of stock which are owned as follows:

Richard Collins – 50 shares	Christopher W. Varvaro – 50 shares
Louis J. Puleo, Jr. – 50 shares	Eugene Basini – 50 shares

The Board of Directors of Focus Rx Pharmacy Services, Inc. is comprised of the following individuals:

Richard Collins, R.Ph – President Pharmacist in Charge, Focus Rx Pharmacy Services, Inc. Pharmacist, Focus Rx, Inc.	Christopher W. Varvaro, R. Ph. – Vice-President Pharmacist & COO, Focus Rx Pharmacy Services, Inc. Pharmacist, Focus Rx, Inc.
Louis J. Puleo, Jr. – Secretary CEO, Focus Rx Pharmacy Services, Inc. Business Developer, Focus Rx, Inc.	Eugene Basini, R.Ph. – Treasurer Treasurer, Focus Rx Pharmacy Services, Inc. President/Pharmacist in Charge, Focus Rx, Inc.

A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The Office of Professions of the State Education Department indicates no issues with the licenses of the health care professionals associated with this application.

The applicant proposes to serve the residents of the following counties from an office located at 1361 Lincoln Avenue, Suite 9, Holbrook, New York 11741:

Suffolk	Nassau	Orange
Putnam	Rockland	Ulster
Westchester	Queens	

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Nutrition	Homemaker	Housekeeper

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

Contingency

Submission of any and all information requested by the Division of Legal Affairs, in a form and manner acceptable to the Department.

Recommendation: Contingent Approval  
Date: March 15, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: New Broadview Manor Home for Adults, LLC  
d/b/a New Broadview Manor Home for Adults LHCSA  
Address: Staten Island  
County: Richmond  
Structure: Limited Liability Company  
Application Number: 161126E

Description of Project:

New Broadview Manor Home for Adults, LLC d/b/a New Broadview Manor Home for Adults LHCSA, a limited liability company, requests approval for a change in ownership of a licensed home care services agency under Article 36 of the Public Health Law.

New Broadview Manor d/b/a New Broadview Manor Home for Adults LHCSA, a proprietary partnership, was previously approved as a home care services agency by the Public Health Council at its May 29, 1998 meeting and subsequently licensed as 9910L001. At that time, the partners were Ludovic Marcovici (50%) and Josef Yunger (50%). In June 2003, the partnership filed a Certificate of Conversion with the Department of State to convert the partnership into a limited liability company.

The purpose of this application is to seek approval to transfer all of the membership interest of Ludovic Marcovici to Josef Yunger (40%), Jonathan Yunger (5%) and Katherine Yunger (5%).

This LHCSA will be associated with the Adult Home/Assisted Living Program operated by Broadview Manor Home for Adults, LLC.

The proposed membership of New Broadview Manor Home for Adults, LLC d/b/a New Broadview Manor Home for Adults LHCSA comprises the following individuals:

Josef Yunger – 90%  
Owner/Member, New Broadview Manor Home for Adults, LLC  
Owner/Operator, New Broadview Manor Home for Adults LHCSA  
Owner/Operator, New Broadview Manor Home for Adults Limited LHCSA

Affiliations:

New Broadview Manor Home for Adults, LLC (AH/ALP, 1982 – Present)  
New Broadview Manor Home for Adults LHCSA (1982 – Present)  
New Broadview Manor Home for Adults Limited LHCSA (1982- Present)

Jonathan Yunger – 5%  
Director of Operations/Compliance, New Broadview Manor Home for Adults, LLC

Katherine Yunger – 5%  
Manufacturer's Representative-HVAC Systems, ADE Systems

A search of the individual named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The applicant proposes to serve the residents of Richmond County from an office located at 70 Father Capodanno Boulevard, Staten Island, New York 10305.

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Speech-Language Pathology
Nutrition	Housekeeper	

A seven (7) year review of the operations of the following facilities/agencies was performed as part of this review (unless otherwise noted):

New Broadview Manor Home for Adults, LLC (AH/ALP)  
New Broadview Manor Home for Adults LHCSA  
New Broadview Manor Home for Adults Limited LHCSA

The information provided by the Division of Adult Care Facilities and Assisted Living Surveillance has indicated that adult care facilities have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services has indicated that the home care agencies have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

Review of the Personal Qualifying Information indicates that the applicant has the required character and competence to operate a licensed home care services agency.

Recommendation: Approval  
Date: March 21, 2016



## MEMORANDUM

**To:** Public Health and Health Planning Council

**From:** Richard J. Zahnleuter  
General Counsel 

**Date:** April 27, 2016

**Subject:** Restated Certificate of Incorporation of Housing Works Health Services III, Inc.

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Attached is the proposed Restated Certificate of Incorporation of Housing Works Health Services III, Inc. This not-for-profit corporation seeks approval to change its name to "Housing Works Community Healthcare". One of the purposes of the corporation is to solicit grants, contributions and donations of money. Public Health and Health Planning Council approval for a change of corporate name is therefore required by Not-for-Profit Corporation Law § 804(a) and 10 NYCRR § 600.11 (a) (1).

There is no legal objection to the proposed name change, and the proposed Restated Certificate of Incorporation is in legally acceptable form.



**DELANEY CORPORATE SERVICES, LTD.**

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800-717-2810 • 518-465-9242 • 518-465-7883 (fax)  
nick@delaneycorporate.com

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*"For service as good as gold"*

April 19, 2016

**STATE OF NEW YORK DEPARTMENT OF HEALTH**

Colleen M. Leonard, Executive Secretary  
Public Health and Health Planning Council  
Corning Tower, Room 1805  
Albany, New York 12237  
518-402-0964

**RE: HOUSING WORKS HEALTH SERVICES III, INC.**

To whom this may concern:

I hereby respectfully request your consent to the filing of the attached restated certificate of incorporation for the above reference NYS Not-for-Profit Corporation. A copy of all charter documents are attached from the New York Secretary of State.

If you have any questions or require further information, please do not hesitate to contact me. Otherwise, please issue your consent to the undersigned at your earliest convenience.

Sincerely,

  
Nicholas P. Hopeck  
Vice President

**RESTATED CERTIFICATE OF INCORPORATION**  
**OF**  
**HOUSING WORKS HEALTH SERVICES III, INC.**

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(Under Section 805 of the Not-for-Profit Corporation Law)

The undersigned, being the Secretary of Housing Works Health Services III, Inc., in accordance with Section 805 of the New York Not-for-Profit Corporation Law, does hereby certify:

1. The name of the corporation is Housing Works Health Services III, Inc.
2. The Certificate of Incorporation of Housing Works Health Services III, Inc. was filed by the Department of State on the 4<sup>th</sup> day of April, 1995.
3. The Certificate of Incorporation as now in full force and effect is hereby amended to effect the following amendments:

Article **FIRST** of the Certificate of Incorporation, setting forth the name of the corporation, is hereby amended to read, in its entirety, as follows

**FIRST:** The name of the corporation is Housing Works Community Healthcare, Inc. (hereinafter referred to as the "Corporation").

Article **FOURTH** of the Certificate of Incorporation, setting forth the purposes of the corporation, is hereby amended to read, in its entirety, as follows:

**FOURTH:** The Corporation is organized exclusively for charitable, scientific and educational purposes, within the meaning of Section 501(c)(3) of the Code, which purposes shall include the following:

(a) planning, developing, constructing, erecting, building, acquiring, altering, reconstructing, rehabilitating, owning, leasing, maintaining and operating one or more adult day diagnostic and treatment centers (hereinafter referred to as the "Centers") to be located in the City of New York, State of New York, which Centers will serve persons living with AIDS or HIV illness;

(b) applying for and maintaining all necessary certificates and permits under Article 28 of the Public Health Law of the State of New York, as amended (hereinafter referred to as the "Public Health Law") and the regulations in effect from time to time thereunder to operate the Centers;

(c) operating each such Center to provide a broad range of health services to persons living with AIDS or HIV illness, including patients who may be residents of any

low income housing facility owned or operated by Housing Works or any affiliate thereof and other clients of Housing Works, by providing and/or arranging a comprehensive range of multi-disciplinary health and social services, including, without limitation, medical services, case management services, food and nutrition services, social services as indicated by the patients' medically related social and emotional needs, assistance and/or supervision, when required, with activities of daily living, rehabilitation therapy services, activities programs, nursing services, religious and pastoral counselling and HIV risk reduction counselling for patients requesting such counselling, pharmaceutical services, substance abuse treatment, if appropriate, and dental services;

(d) promoting and carrying on scientific research related to the care of the sick, injured and disabled, and related to the causes, origins, treatment and prevention of diseases and sickness, injuries and disabilities; provided, however, that the Corporation shall not promote or carry on scientific research involving human subjects, unless such scientific research is conducted in accordance with applicable law;

(e) engaging in educational activities related to providing care to the sick, injured and disabled, and related to promoting the health of the public; and

(f) operating outpatient programs for the mentally disabled pursuant to Article 31 of the Mental Hygiene Law, subject to the issuance of an operating certificate by the Office of Mental Health. The Corporation understands that it may not establish any facility or program without first obtaining such operating certificate.

(g) To operate chemical dependence, alcoholism and/or substance abuse services, within the meaning of Articles 19 and 32 of the Mental Hygiene Law and the Rules and regulations adopted pursuant thereto as each may be amended from time to time, which shall require as a condition precedent before engaging in the conduct of any such services an Operating Certificate from the New York State Office of Alcoholism and Substance Abuse Services.

Article FIFTH, subsection (a) of the Certificate of Incorporation, setting forth the powers and authorities of the corporation in furtherance of its corporate purposes, is hereby amended to read as follows:

#### **FIFTH**

...(a) solicit grants, contributions and donations of money, goods, merchandise and other property of all kinds, whether real, personal or mixed, by private or public appeal, by advertisement or by any other lawful means for any corporate purpose;

Article SEVENTH, subsection (d) of the Certificate of Incorporation, regarding Internal Revenue Code requirements, is hereby amended to read as follows:

**SEVENTH**

...(d) For those periods (if any) during which the Corporation is a private foundation as described in Section 509(a) of the Code, and as provided by Section 406 of the Not-for-Profit Corporation Law:

(i) the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under Section 4942 of the Code;

(ii) the Corporation shall not engage in any act of self-dealing which is subject to tax under Section 4941 of the Code;

(iii) the Corporation shall not retain any excess business holdings which are subject to tax under Section 4943 of the Code;

(iv) the Corporation shall not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(v) the Corporation shall not make any taxable expenditures which are subject to tax under Section 4945 of the Code.

Article **EIGHTH**, setting forth the principal office of the corporation, is hereby amended to read as follows:

**EIGHTH**: The principal office of the Corporation is to be located in Kings County, State of New York.

Article **TENTH**, setting forth the initial Board of Directors, is hereby deleted, and the Certificate of Incorporation is hereby renumbered to reflect such deletion.

Article **ELEVENTH**, setting forth the address of the corporation, is hereby renumbered and amended to read as follows:

**TENTH**: The Corporation hereby designates the Secretary of State as its agent upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is:

Housing Works Community Healthcare, Inc.  
57 Willoughby St.  
Brooklyn, NY 11201

6. The text of the Certificate of Incorporation is hereby restated to set forth its entire text, as amended, as follows:

**FIRST**: The name of the corporation is Housing Works Community Healthcare, Inc. (hereinafter referred to as the "Corporation").

**SECOND:** The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and shall be a Type B corporation under Section 201 of the Not-for-Profit Corporation Law having the purposes set forth in Article Fourth below.

**THIRD:** Pursuant to Section 601 of the Not-for-Profit Corporation Law, the Corporation shall have one class of members, the sole member of which shall be Housing Works, Inc. (hereinafter referred to as "Housing Works"), a New York corporation organized under the Not-for-Profit Corporation Law and recognized as a tax-exempt, publicly-supported organization under Sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as the "Code"; all references herein to Sections of the Code shall be to Sections thereof, as amended from time to time, and to corresponding provisions of subsequent United States Internal Revenue laws).

**FOURTH:** The Corporation is organized exclusively for charitable, scientific and educational purposes, within the meaning of Section 501(c)(3) of the Code, which purposes shall include the following:

(a) planning, developing, constructing, erecting, building, acquiring, altering, reconstructing, rehabilitating, owning, leasing, maintaining and operating one or more adult day diagnostic and treatment centers (hereinafter referred to as the "Centers") to be located in the City of New York, State of New York, which Centers will serve persons living with AIDS or HIV illness;

(b) applying for and maintaining all necessary certificates and permits under Article 28 of the Public Health Law of the State of New York, as amended (hereinafter referred to as the "Public Health Law") and the regulations in effect from time to time thereunder to operate the Centers;

(c) operating each such Center to provide a broad range of health services to persons living with AIDS or HIV illness, including patients who may be residents of any low income housing facility owned or operated by Housing Works or any affiliate thereof and other clients of Housing Works, by providing and/or arranging a comprehensive range of multi-disciplinary health and social services, including, without limitation, medical services, case management services, food and nutrition services, social services as indicated by the patients' medically related social and emotional needs, assistance and/or supervision, when required, with activities of daily living, rehabilitation therapy services, activities programs, nursing services, religious and pastoral counselling and HIV risk reduction counselling for patients requesting such counselling, pharmaceutical services, substance abuse treatment, if appropriate, and dental services;

(d) promoting and carrying on scientific research related to the care of the sick, injured and disabled, and related to the causes, origins, treatment and prevention of diseases and sickness, injuries and disabilities; provided, however, that the Corporation shall not promote or carry on scientific research involving human subjects, unless such scientific research is conducted in accordance with applicable law;

(e) engaging in educational activities related to providing care to the sick, injured and disabled, and related to promoting the health of the public; and

(f) operating outpatient programs for the mentally disabled pursuant to Article 31 of the Mental Hygiene Law, subject to the issuance of an operating certificate by the Office of Mental Health. The Corporation understands that it may not establish any facility or program without first obtaining such operating certificate.

(g) To operate chemical dependence, alcoholism and/or substance abuse services, within the meaning of Articles 19 and 32 of the Mental Hygiene Law and the Rules and regulations adopted pursuant thereto as each may be amended from time to time, which shall require as a condition precedent before engaging in the conduct of any such services an Operating Certificate from the New York State Office of Alcoholism and Substance Abuse Services.

**FIFTH:** In furtherance, but not in limitation, of the purposes set forth in Article Fourth above, the Corporation shall have the power and authority to do the following:

(a) solicit grants, contributions and donations of money, goods, merchandise and other property of all kinds, whether real, personal or mixed, by private or public appeal, by advertisement or by any other lawful means for any corporate purpose;

(b) receive, own, repair, administer and maintain, as applicable, money, goods, merchandise, securities, negotiable instruments and other property of all kinds, whether real, personal or mixed, and all other rights and services of every kind and description, received by grant, contribution, donation, gift, deed, bequest, devise or loan from any source, private, public or governmental, and otherwise to acquire money, goods, merchandise, securities, negotiable instruments and other property of all kinds, whether real, personal or mixed, and all other rights and services of every kind and description, and to own, hold, repair, invest, lease, loan, expend, contribute, use, sell, transfer, pledge, hypothecate, encumber, mortgage, grant a security interest in or otherwise dispose of or deal with, as applicable, any and all such money, goods, merchandise, securities, negotiable instruments and other property of all kinds, whether real, personal or mixed, and all other rights or services so acquired for any corporate purpose;

(c) aid, support and assist by gifts, contributions or otherwise, other domestic or foreign corporations, community chests, funds and foundations that are organized and operated exclusively for charitable, educational, religious, scientific, literary or cultural purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in Section 501(h) of the Code), and which do not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office;

(d) enter into such contracts, agreements or other arrangements and do all such acts as are necessary or convenient to accomplish the objects and purposes herein set forth, to the extent not forbidden by law, this Certificate of Incorporation or the by-laws of the Corporation, including the execution of a Regulatory Agreement with New York State Medical Care Facilities Financing Agency, acting by and through the Commissioner of Health of the State of New York (hereinafter referred to as the "Commissioner"), and of such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of Article 28-B of the Public Health Law; and

(e) have and exercise all general powers enumerated in Section 202 of the Not-for-Profit Corporation Law and all other powers set forth herein, in the by-laws of the Corporation and elsewhere in the Not-for-Profit Corporation Law and those powers granted to it by the Public Health Law and the relevant regulations in effect from time to time thereunder.

**SIXTH:** (a) Except to the extent such approvals or consents have been obtained, nothing contained herein shall authorize the Corporation to engage in any activities which would require the approval or consent of the State of New York or any official, department, agency or instrumentality thereof as required by Section 404 of the Not-for-Profit Corporation Law and the Public Health Law and the relevant regulations in effect from time to time thereunder.

(b) Nothing in this Certificate of Incorporation shall authorize the Corporation to engage in any activity which is not in furtherance of the purposes set forth in Article Fourth above.

(c) Notwithstanding anything in this Certificate of Incorporation to the contrary, whenever the Corporation proposes to lease premises in which the operation of the Center is to be conducted, it shall do so in accordance with the provisions of Article 28 of the Public Health Law and the relevant regulations in effect from time to time thereunder, and in particular, insofar as required by any such regulations, any such lease agreement shall include the following language:

"The landlord acknowledges that his rights of reentry into the premises set forth in this lease do not confer on him the authority to operate a hospital as defined in Article 28 of the Public Health Law on the premises and agrees that he will give the New York State Department of Health, Tower Building, Empire State Plaza, Albany, NY 12237, notification by certified mail of his intent to reenter the premises or to initiate dispossession proceedings or that the lease is due to expire, at least 30 days prior to the date on which the landlord intends to exercise a right of reentry or to initiate such proceedings or at least 60 days before the expiration of the lease.

Upon receipt of notice from landlord of his intent to exercise his right of reentry or upon the service of process in dispossession proceedings and 60 days prior to the expiration of the lease, the tenant shall immediately notify by certified mail

the New York State Department of Health, Tower Building, Empire State Plaza, Albany, NY 12237, of the receipt of such notice or service of such process or that the lease is about to expire."

or other such language, if any, as may be required by applicable law to be contained in any such lease agreement.

(d) The Corporation has been organized exclusively to serve a public purpose and it shall be and remain subject to the supervision of the Commissioner to the extent required by provisions of Article 28-B of the Public Health Law and the relevant regulations in effect from time to time thereunder.

**SEVENTH:** (a) Notwithstanding any other provision of this Certificate of Incorporation, the Corporation is organized exclusively for charitable, scientific and educational purposes as specified in Section 501(c)(3) of the Code and the Corporation shall not carry on any activity not permitted to be carried on (i) by a corporation exempt from Federal income taxation under Section 501(c)(3) of the Code or (ii) by a corporation the contributions, transfers, or gifts to which are deductible under Sections 170(c)(2), 2055(a)(2) and 2522(a)(2) of the Code.

(b) The Corporation is not formed for pecuniary profit or for financial gain and no part of its assets, income or profit shall be distributed to or inure to the benefit of any private individual, except to the extent permitted by the Not-for-Profit Corporation Law and the Public Health Law and the relevant regulations in effect from time to time thereunder. Reasonable compensation, however, may be paid for services rendered to or for the Corporation in furtherance of one or more of its purposes. No director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets of the Corporation upon dissolution of the Corporation.

(c) No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in Section 501(h) of the Code), and the Corporation shall not participate in, or intervene (including the publishing or distributing of statements) in, any political campaign on behalf of (or in opposition to) any candidate for public office.

(d) For those periods (if any) during which the Corporation is a private foundation as described in Section 509(a) of the Code, and as provided by Section 406 of the Not-for-Profit Corporation Law:

(i) the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under Section 4942 of the Code;

(ii) the Corporation shall not engage in any act of self-dealing which is subject to tax under Section 4941 of the Code;

(iii) the Corporation shall not retain any excess business holdings which are subject to tax under Section 4943 of the Code;

(iv) the Corporation shall not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(v) the Corporation shall not make any taxable expenditures which are subject to tax under Section 4945 of the Code.

**EIGHTH:** The principal office of the Corporation is to be located in Kings County, State of New York.

**NINTH:** The number of Directors shall be as specified in the by-laws of the Corporation, but in no event shall there be fewer than three Directors.

**TENTH:** The Corporation hereby designates the Secretary of State as its agent upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is:

Housing Works Community Healthcare, Inc.  
57 Willoughby St.  
Brooklyn, NY 11201

**ELEVENTH:** In the event of the dissolution of the Corporation, all of the assets of the Corporation remaining after the payment or satisfaction of its liabilities shall be distributed, subject to the approval of a Justice of the Supreme Court of the State of New York, but only to one or more organizations as shall at the time qualify as an exempt organization(s) under Section 501(c)(3) of the Code.

**TWELFTH:** The Corporation's existence shall be perpetual.

7. The changes included in this Restated Certificate of Incorporation and the restatement of this Certificate of Incorporation were authorized by the sole member of the Corporation.

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF, this restated certificate of incorporation has been signed, and the statements made herein are affirmed as true, under the penalties of perjury, this 13 day of April, 2016.

A handwritten signature in cursive script, appearing to read "Daronne Hudson", written over a horizontal line.

Daronne Hudson  
Secretary

Officer's Statement

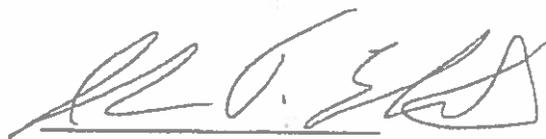
I, Matthew Bernardo, President of Housing Works Community Healthcare (the "Corporation"), a not-for-profit corporation formed under the laws of the State of New York, do hereby confirm that the assets that the Corporation currently has on hand will be used for the current purposes of the Corporation and the assets that are obtained by the Corporation following the filing of the certificate of amendment to the certificate of incorporation of the Corporation, which amends the purposes of the Corporation, will be used for the purposes of the Corporation as amended.

Dated: April 13, 2015

  
Matthew Bernardo / President  
Name & Title of the Office/Director

State of New York     )  
County of KINGS     )

On this 13<sup>th</sup> day of April, 2015 (EE.) before me personally appeared Matthew Bernardo to me known to be the individual described in and who executed the foregoing instrument, and he/she acknowledged to me that he/she executed the same.



Notary Public

ILENA T ELEVITCH  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01EL6149353  
Qualified In Kings County  
My Commission Expires 7/10/16

**STATE OF NEW YORK**  
**OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES**  
**ALBANY, NEW YORK**

**KNOWN ALL PERSONS BY THESE PRESENTS:**

Pursuant to the provisions of Article 32 of the Mental Hygiene Law, and Section 805 of the Not-For-Profit Corporation Law, approval is hereby given to the filing of the Restated Certificate of Incorporation of

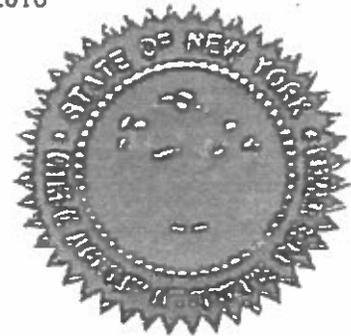
**Housing Works Health Services III, Inc.**

This approval shall not be construed as an authorization for the Corporation to engage in any activity for which the provisions of Article 32 of the Mental Hygiene Law require an Operating Certificate to be issued by the Office of Alcoholism and Substance Abuse Services unless said Corporation has been issued such Operating Certificate; nor shall it be construed to eliminate the need for the said Corporation to meet any and all of the requirements and conditions precedent set forth in Article 32 of such law and the regulations promulgated thereunder for issuance of said Operating Certificate.

IN WITNESS WHEREOF, this instrument is Executed and the Seal of the New York State Office of Alcoholism and Substance Abuse Services is affixed this 25<sup>th</sup> day of March, 2016

ROBERT A. KENT  
GENERAL COUNSEL  
NYS OASAS

By: Janet L. Paloski  
Director  
Bureau of Certification and  
Systems Management



*Janet Paloski*

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DOSPITEFH		CORPORATIONS PUBLIC INQUIRY SYSTEM			04/19/16	
FILING HISTORY INFORMATION						
ORG. NAME HOUSING WORKS HEALTH SERVICES III, INC.						
TYPE	NUM OF DOCS	STATUS	COUNTY	NFP TYPE	JURISDIC	
DOM NFP	3	A	NEWY	B		
DATE	MICROFILM #	CODE	DESCRIPTION			
05/06/2003	030506000175	27DN A	PRO			
09/04/1995	950804000462	02DN A	DUR PRO			
04/04/1995	950404000599	01DN A	INCORPORATION (NOT-FOR-PROFIT)			
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/ /						
INF101 - PROVIDE REQUIRED INFORMATION AND PRESS APPROPRIATE FUNCTION KEY						
=>						
1=	2=CURRENT	3=PREVIOUS	4=LIST	5=MERGER	6=STOCK	
7=BACKWARD	8=FORWARD	9=CO DETAIL	10=	11=CONVER	12=NAME ENTRY	
		Increase Font	Decrease Font	Disconnect		AT OFF

F 950404000599

CERTIFICATE OF INCORPORATION

OF

HOUSING WORKS HEALTH SERVICES III, INC.

Under Section 402 of the Not-for-Profit Corporation Law  
of the State of New York

I, the undersigned, a natural person eighteen years of age or older, desiring to form a corporation pursuant to the provisions of the Not-for-Profit Corporation Law of the State of New York, as amended (hereinafter referred to as the "Not-for-Profit Corporation Law"), do hereby certify as follows:

FIRST: The name of the corporation is Housing Works Health Services III, Inc. (hereinafter referred to as the "Corporation").

SECOND: The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and shall be a Type B corporation under Section 201 of the Not-for-Profit Corporation Law having the purposes set forth in Article Fourth below.

THIRD: Pursuant to Section 601 of the Not-for-Profit Corporation Law, the Corporation shall have one class of members, the sole member of which shall be Housing Works, Inc. (hereinafter referred to as "Housing Works"), a New York corporation organized under the Not-for-Profit Corporation Law and recognized as a tax-exempt, publicly-supported organization under Sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as the "Code");

all references herein to Sections of the Code shall be to Sections thereof, as amended from time to time, and to corresponding provisions of subsequent United States Internal Revenue laws).

FOURTH: The Corporation is organized exclusively for charitable, scientific and educational purposes, within the meaning of Section 501(c)(3) of the Code, which purposes shall include, but are not limited to, the following:

(a) planning, developing, constructing, erecting, building, acquiring, altering, reconstructing, rehabilitating, owning, leasing, maintaining and operating one or more adult day diagnostic and treatment centers (hereinafter referred to as the "Centers") to be located in the City of New York, State of New York, which Centers will serve persons living with AIDS or HIV illness;

(b) applying for and maintaining all necessary certificates and permits under Article 28 of the Public Health Law of the State of New York, as amended (hereinafter referred to as the "Public Health Law") and the regulations in effect from time to time thereunder to operate the Centers;

(c) operating each such Center to provide a broad range of health services to persons living with AIDS or HIV illness, including patients who may be residents of any low income housing facility owned or operated by Housing Works or any affiliate thereof and other clients of Housing Works, by providing and/or arranging a comprehensive range of multi-

disciplinary health and social services, including, without limitation, medical services, case management services, food and nutrition services, social services as indicated by the patients' medically related social and emotional needs, assistance and/or supervision, when required, with activities of daily living, rehabilitation therapy services, activities programs, nursing services, religious and pastoral counseling and HIV Risk reduction counselling for patients requesting such counselling, pharmaceutical services, substance abuse treatment, if appropriate, and dental services;

(d) promoting and carrying on scientific research related to the care of the sick, injured and disabled, and related to the causes, origins, treatment and prevention of diseases, sickness, injuries and disabilities; provided, however, that the Corporation shall not promote or carry on scientific research involving Human subjects, unless such scientific research is conducted in accordance with; and

(e) engaging in educational activities related to providing care to the sick, injured and disabled, and related to promoting the health of the public.

FIFTH: In furtherance, but not in limitation, of the purposes set forth in Article Fourth above, the Corporation shall have the power and authority to do the following:

(a) solicit grants, contributions and donations of money, goods, merchandise and other property of all kinds, whether real, personal and mixed, by private or public appeal, by

advertisement or by any other lawful means for any corporate purpose;

(b) receive, own, repair, administer and maintain, as applicable, money, goods, merchandise, securities, negotiable instruments and other property of all kinds, whether real, personal or mixed, and all other rights and services of every kind and description, received by grant, contribution, donation, gift, deed, bequest, devise or loan from any source, private, public or governmental, and otherwise to acquire money, goods, merchandise, securities, negotiable instruments and other property of all kinds, whether real, personal or mixed, and all other rights and services of every kind and description, and to own, hold, repair, invest, lease, loan, expend, contribute, use, sell, transfer, pledge, hypothecate, encumber, mortgage, grant a security interest in or otherwise dispose of or deal with, as applicable, any and all such money, goods, merchandise, securities, negotiable instruments and other property of all kinds, whether real, personal or mixed, and all other rights or services so acquired for any corporate purpose;

(c) aid, support and assist by gifts, contributions or otherwise, other domestic or foreign corporations, community chests, funds and foundations that are organized and operated exclusively for charitable, educational, religious, scientific, literary or cultural purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is

carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in Section 501(b) of the Code), and which do not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office;

(d) enter into such contracts, agreements or other arrangements and do all such acts as are necessary or convenient to accomplish the objects and purposes herein set forth, to the extent not forbidden by law, this Certificate of Incorporation or the by-laws of the Corporation, including the execution of a Regulatory Agreement with New York State Medical Care Facilities Financing Agency, acting by and through the Commissioner of Health of the State of New York (hereinafter referred to as the "Commissioner"), and of such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of Article 28-B of the Public Health Law; and

(e) have and exercise all general powers enumerated in Section 202 of the Not-for-Profit Corporation Law and all other powers set forth herein, in the by-laws of the Corporation and elsewhere in the Not-for-Profit Corporation Law and those powers granted to it by the Public Health Law and the relevant regulations in effect from time to time thereunder.

SIXTH: (a) Except to the extent such approvals or consents have been obtained, nothing contained herein shall authorize the Corporation to engage in any activities which would

carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in section 501(b) of the Code), and which do not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office;

(d) enter into such contracts, agreements or other arrangements and do all such acts as are necessary or convenient to accomplish the objects and purposes herein set forth, to the extent not forbidden by law, this Certificate of Incorporation or the by-laws of the Corporation, including the execution of a Regulatory Agreement with New York State Medical Care Facilities Financing Agency, acting by and through the Commissioner of Health of the State of New York (hereinafter referred to as the "Commissioner"), and of such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of Article 28-B of the Public Health Law; and

(e) have and exercise all general powers enumerated in Section 202 of the Not-for-Profit Corporation Law and all other powers set forth herein, in the by-laws of the Corporation and elsewhere in the Not-for-Profit Corporation Law and those powers granted to it by the Public Health Law and the relevant regulations in effect from time to time thereunder.

SIXTH: (a) Except to the extent such approvals or consents have been obtained, nothing contained herein shall authorize the Corporation to engage in any activities which would

require the approval or consent of the State of New York or any official, department, agency or instrumentality thereof as required by Section 404 of the Not-for-Profit Corporation Law and the Public Health Law and the relevant regulations in effect from time to time thereunder.

(b) Nothing in this Certificate of Incorporation shall authorize the Corporation to engage in any activity which is not in furtherance of the purposes set forth in Article Fourth above.

(c) Notwithstanding anything in this Certificate of Incorporation to the contrary, whenever the Corporation proposes to lease premises in which the operation of the Center is to be conducted, it shall do so in accordance with the provisions of Article 28 of the Public Health Law and the relevant regulations in effect from time to time thereunder, and in particular, insofar as required by any such regulations, any such lease agreement shall include the following language:

"The landlord acknowledges that his rights of reentry into the premises set forth in this lease do not confer on him the authority to operate a hospital as defined in Article 28 of the Public Health Law on the premises and agrees that he will give the New York State Department of Health, Tower Building, Empire State Plaza, Albany, NY 12237, notification by certified mail of his intent to reenter the premises or to initiate dispossession proceedings or that the lease is due to expire, at least 30 days prior to the date on which the landlord intends to exercise a right of reentry or to initiate such proceedings or at least 60 days before the expiration of the lease.

Upon receipt of notice from landlord of his intent to exercise his right of reentry or upon the service of process in dispossession proceedings and 60 days prior to the expiration of the lease, the tenant shall immediately notify by certified

mail the New York State Department of Health,  
Tower Building, Empire State Plaza, Albany, NY  
12237, of the receipt of such notice or service of  
such process or that the lease is about to  
expire."

or such other language, if any, as may be required by applicable  
law to be contained in any such lease agreement.

(d) The Corporation has been organized exclusively to  
serve a public purpose and it shall be and remain subject to the  
supervision of the Commissioner to the extent required by the  
provisions of Article 25-B of the Public Health Law and the  
relevant regulations in effect from time to time thereunder.

SEVENTH: (a) Notwithstanding any other provision of  
this Certificate of Incorporation, the Corporation is organized  
exclusively for charitable, scientific and educational purposes  
as specified in Section 501(c)(3) of the Code and the Corporation  
shall not carry on any activity not permitted to be carried on  
(i) by a corporation exempt from Federal income taxation under  
Section 501(c)(3) of the Code or (ii) by a corporation the  
contributions, transfers, or gifts to which are deductible under  
Sections 170(c)(2), 2055(a)(2) and 2522(a)(2) of the Code.

(b) The Corporation is not formed for pecuniary profit  
or for financial gain and no part of its assets, income or profit  
shall be distributed to or inure to the benefit of any private  
individual, except to the extent permitted by the Not-for-Profit  
Corporation Law and the Public Health Law and the relevant  
regulations in effect from time to time thereunder. Reasonable  
compensation, however, may be paid for services rendered to or

require the approval or consent of the State of New York or any official, department, agency or instrumentality thereof as required by Section 404 of the Not-for-Profit Corporation Law and the Public Health Law and the relevant regulations in effect from time to time thereunder.

(b) Nothing in this Certificate of Incorporation shall authorize the Corporation to engage in any activity which is not in furtherance of the purposes set forth in Article Fourth above.

(c) Notwithstanding anything in this Certificate of Incorporation to the contrary, whenever the Corporation proposes to lease premises in which the operation of the Center is to be conducted, it shall do so in accordance with the provisions of Article 28 of the Public Health Law and the relevant regulations in effect from time to time thereunder, and in particular, insofar as required by any such regulations, any such lease agreement shall include the following language:

"The landlord acknowledges that his rights of reentry into the premises set forth in this lease do not confer on him the authority to operate a hospital as defined in Article 28 of the Public Health Law on the premises and agrees that he will give the New York State Department of Health, Tower Building, Empire State Plaza, Albany, NY 12237, notification by certified mail of his intent to reenter the premises or to initiate dispossession proceedings or that the lease is due to expire, at least 30 days prior to the date on which the landlord intends to exercise a right of reentry or to initiate such proceedings or at least 60 days before the expiration of the lease.

Upon receipt of notice from landlord of his intent to exercise his right of reentry or upon the service of process in dispossession proceedings and 60 days prior to the expiration of the lease, the tenant shall immediately notify by certified

for the Corporation in furtherance of one or more of its purposes. No director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets of the Corporation upon dissolution of the Corporation.

(c) No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in Section 501(h) of the Code), and the Corporation shall not participate in, or intervene (including the publishing or distributing of statements) in, any political campaign on behalf of (or in opposition to) any candidate for public office.

(d) For those periods (if any) during which the Corporation is a private foundation as described in Section 509(a) of the Code, and as provided by Section 405 of the Not-for-Profit Corporation Law:

(i) the Corporation shall distribute its income for said period at such time and manner as not to subject it to tax under Section 4942 of the Code;

(ii) the Corporation shall not engage in any act of self-dealing which is subject to tax under Section 4941(d) of the Code;

(iii) the Corporation shall not retain any excess business holdings which are subject to tax under Section 4943(c) of the Code;

(iv) the Corporation shall not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and

(v) the Corporation shall not make any taxable expenditures which are subject to tax under Section 4945(d) of the Code.

EIGHTH: The principal office of the Corporation is to be located in the County and State of New York.

NINTH: The number of Directors shall be as specified in the by-laws of the Corporation; but in no event shall there be fewer than three Directors.

TENTH: The names and addresses of the persons constituting the initial Board of Directors of the Corporation are as follows:

<u>Name</u>	<u>Address</u>
Mindy Fullilove, M.D.	715 Park Avenue Hoboken, New Jersey 07030
Dennis de León, Esq.	337 West 14th St. #51 New York, New York 10014
Valerie Jiménez	262 East 2d St. Apt. 1B New York, New York 10009
Teri Hagan	239 East 2d St. Apt. #2 New York, New York 10009

ELEVENTH: The Corporation hereby designates the Secretary of State as its agent upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation

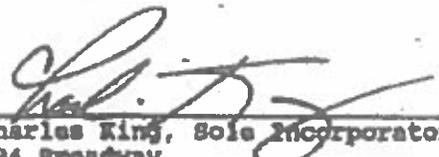
served upon him is:

Housing Works Health Services III, Inc.  
594 Broadway  
7th Floor, Suite 700  
New York, New York 10012  
Attn: Charles King

TWELFTH: In the event of the dissolution of the Corporation, all of the assets of the Corporation remaining after the payment or satisfaction of its liabilities shall be distributed, subject to the approval of a Justice of the Supreme Court of the State of New York, but only to one or more organisations as shall at the time qualify as an exempt organisation(s) under Section 501(c)(3) of the Code.

THIRTEENTH: The Corporation's existence shall terminate on January 20, 1998.

IN WITNESS WHEREOF, I, CHARLES KING, as sole incorporator, hereby subscribe and affirm, under penalties of perjury, this Certificate of Incorporation as true this 15<sup>th</sup> day of February, 1995.

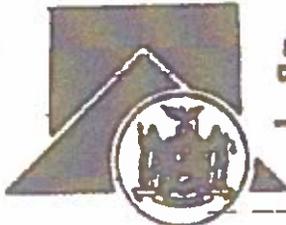
  
Charles King, Sole Incorporator  
594 Broadway  
7th Floor, Suite 700  
New York, NY 10012

Subscribed and Sworn to this  
15<sup>th</sup> day of February, 1995

  
Notary Public



120



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
CORNING TOWER BUILDING  
ALBANY, N.Y. 12237

## PUBLIC HEALTH COUNCIL

MARCH 23, 1995

Mr. Charles King  
Co-Executive Director  
Housing Works, Inc.  
594 Broadway, Suite 700  
New York, NY 10012

Re: Application No. 941006 - Housing Works Health Services III,  
Inc. d/b/a Housing Works East New York HIV/AIDS Adult Day  
Health Care Program (Kings Co.)

Dear Mr. King:

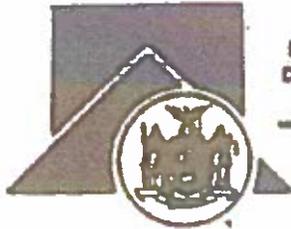
I HEREBY CERTIFY THAT AFTER INQUIRY and investigation, the application of Housing Works Health Services III, Inc. is APPROVED, the contingencies having now been fulfilled satisfactorily. The Public Health Council had considered this application and imposed the contingencies at its meeting of January 20, 1995.

Public Health Council approval is not to be construed as approval of property costs or the lease submitted in support of the application. Such approval is not to be construed as an assurance or recommendation that property costs or lease amounts as specified in the application will be reimbursable under third party payor reimbursement guidelines.

To complete the requirements for certification approval, please contact the New York City Area Office of the New York State Office of Health Systems Management, 8 Penn Plaza, 8th Floor, 8th Avenue between West 33rd and West 34th Streets, New York, NY 10001, or (212) 623-4268 within 30 days of receipt of this letter.

Sincerely,

Karen S. Westcott  
Executive Secretary



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
CORNING TOWER BUILDING  
ALBANY, N.Y. 12237

## PUBLIC HEALTH COUNCIL

March 23, 1995

Mr. Charles King  
Co-Executive Director  
Housing Works, Inc.  
594 Broadway, Suite 700  
New York, NY 10012

Re: Certificate of Incorporation of Housing Works Health  
Services III, Inc.

Dear Mr. King:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 20th day of January, 1995, I hereby certify that the Public Health Council consents to the filing of the Certificate of Incorporation of Housing Works Health Services III, Inc., dated February 15, 1995, for a limited life duration expiring on January 20, 1998.

Sincerely,

  
Karen S. Westervelt  
Executive Secretary

112

F 950404000 579

CERTIFICATE OF INCORPORATION  
OF

HOUSING WORKS HEALTH SERVICES III, INC.

UNDER SECTION 401 OF THE NOT-FOR-PROFIT CORPORATION  
LAW OF THE STATE OF NEW YORK

APR 4 5 12 PM '55

FILED

**BILLED**  
**NCR-26**

FILED BY:  
HOUSING WORKS, INC.  
594 BROADWAY  
NEW YORK, N.Y. 10012.

1-22  
STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED APR 04 1955  
TAX \$ 0  
BY: J.W.  
NEW YORK

FILED

APR 3 12 09 PM '55

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CERTIFICATE OF AMENDMENT  
OF THE CERTIFICATE OF INCORPORATION

PH-32

OF

Housing Works Health Services III, Inc.

PH-92

F 950 804 000 462

Under Section 803 of the  
Not-For-Profit Corporation Law

We, the undersigned, Charles King and Craig Stier, being respectively the Vice-President and Secretary of Housing Works Health Services III, Inc. (hereinafter referred to as the "Corporation"), hereby certify:

1. The name of the Corporation under which it was originally incorporated is Housing Works Health Services III, Inc.

2. The Certificate of Incorporation of the Corporation was filed by the Department of State on the 4th day of April, 1995 and the law under which it was formed is Section 402 of the New York Not-For-Profit Corporation Law.

3. The Corporation is a corporation as defined in subparagraph (a) (5) of Section 102 of the New York Not-for-Profit Corporation law and is a Type B corporation under Section 201 of the New York Not-For-Profit Corporation Law. Pursuant to Section 601 of the Not-For-Profit Corporation Law, the Corporation has one class of member, the sole member of which is Housing Works, Inc., a New York corporation organized under the Not-For-Profit Corporation Law and recognized as a tax-exempt, publicly-supported organization under Sections 501(c)(3) and 501(a) (1) of the Internal Revenue Code of 1986, as amended.

4. (a) Article THIRTEENTH of the Corporation's Certificate of Incorporation is amended to extend the existence of the Corporation from terminating on January 20, 1998 to perpetual existence.

(b) To effect the foregoing, Article THIRTEENTH of the Corporation's Certificate of Incorporation is amended to read in its entirety as follows:

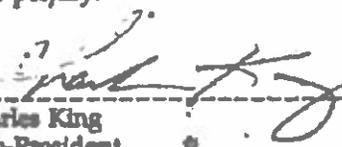
**THIRTEENTH:** The Corporation's existence shall be perpetual.

(c) this amendment was authorized by the unanimous vote of the Board of Directors of the Corporation present at a duly convened meeting of the Board of Directors of the Corporation held on July 26, 1995 at which all of the members of the Board of Directors of the Corporation were present.

5. The Secretary of State is designated as agent of the Corporation upon whom process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is:

Housing Works Health Services III, Inc.  
594 Broadway  
7th Floor, Suite 7000  
New York, New York 10012  
Attn: Charles King

INN WITNESS WHEREOF, the undersigned have executed this  
Certificate of Amendment on the 27th day of July, 1995 and affirm the statements  
contained herein as true under penalties of perjury.

  
-----  
Charles King  
Vice-President

  
-----  
Craig Stier  
Secretary

3

**VERIFICATION**

STATE OF NEW YORK )  
                                  :  
COUNTY OF NEW YORK )

Charles King, being duly sworn, deposes and says that he is the Vice-President of Housing Works Health Services III, Inc., and that he has read the foregoing Certificate of Amendment of the Certificate of Incorporation of Housing Works Health Services III, Inc. and knows the contents thereof, and that the contents thereof are, of his own personal knowledge, true and correct, except as to statements based upon information and belief, and as to those matters, he believes them to be true.

  
-----  
Charles King  
Vice-President

Sworn to before me this  
27th day of July, 1995

  
-----  
Notary Public



VERIFICATION

STATE OF NEW YORK )

COUNTY OF NEW YORK )

Craig Stier, being duly sworn, deposes and says that he is the Secretary of Housing Works Health Services III, Inc., and that he has read the foregoing Certificate of Amendment of the Certificate of Incorporation of Housing Works Health Services III, Inc. and knows the contents thereof, and that the contents thereof are, of his own personal knowledge, true and correct, except as to statements based upon information and belief, and as to those matters, he believes them to be true.

  
-----  
Craig Stier  
Secretary

Sworn to before me this  
27th day of July, 1995

  
-----  
Notary Public



5



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
CORNING TOWER BUILDING  
ALBANY, N.Y. 12227

## PUBLIC HEALTH COUNCIL

August 4, 1995

Mr. Charles King  
Co-Executive Director  
Housing Works, Inc.  
594 Broadway, Suite 700  
New York, NY 10012

Re: Certificate of Amendment of the Certificate of Incorporation of Housing Works Health Services III, Inc.

Dear Mr. King:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 20th day of January, 1995, I hereby certify that the Public Health Council consents to the filing of the Certificate of Amendment to the Certificate of Incorporation of Housing Works Health Services III, Inc., dated July 27, 1995.

Sincerely,

Karen S. Weisheit  
Executive Secretary

PH-32

CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
HOUSING WORKS HEALTH SERVICES-III, INC.

F 950 80 4000 462

Under Section 803 of the  
Not-For-Profit Corporation Law

*WAS*

*ICG*

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED AUG 04 1995

TAXS  
BY: *SAC*  
*New York*

AUG 4 1 50 PM '95

AUG 5 1 52 PM '95

RECEIVED

Craig S. Stier, Esq.  
Housing Works, Inc.  
594 Broadway - suite 700  
New York, NY 10012  
(212)966-0466

**BILLED**

⑦

950 80 4000 487

1080506000/78

New York State  
Department of State  
Division of Corporations, State Records  
and Uniform Commercial Code  
41 State Street  
Albany, NY 12211

CERTIFICATE OF CHANGE

Housing Works Health Services III, Inc.  
(Insert Name of Domestic Corporation)

Under Section 803-A of the Not-for Profit Corporation Law

FIRST: The name of the corporation is: Housing Works Health Services III, Inc.

If the name of the corporation has been changed, the name under which it was formed is: \_\_\_\_\_

SECOND: The certificate of incorporation was filed by the Department of State on: 7/4/95

THIRD: The change(s) effected hereby are: *(Check appropriate box(es))*

The county location, within this state, in which the office of the corporation is located, is changed to: \_\_\_\_\_

The address to which the Secretary of State shall forward copies of process accepted on behalf of the corporation is changed to: 320 West 134th Street 4th Floor  
New York, NY 10014

The corporation hereby: *(Check one)* (N/A)

Designates \_\_\_\_\_ as its registered agent upon whom process against the corporation may be served. The street address of the registered agent is: \_\_\_\_\_

Changes the designation of its registered agent to: \_\_\_\_\_ . The street address of the registered agent is: \_\_\_\_\_

Changes the address of its registered agent to: \_\_\_\_\_

Revokes the authority of its registered agent.

f 030506000 175

FOURTH: The change was authorized by the board of directors.

[Signature]  
(Signature)

Keith Cylan - Co-President/CEO  
(Name and Capacity of Signer)

CERTIFICATE OF CHANGE

OF

Housing Works Health Services III, Inc.  
(Insert Name of Domestic Corporation)

Under Section 803-A of the Not-for-Profit Corporation Law

Filer's Name Kris Cavanaugh  
Address 320 West 13<sup>th</sup> Street 4<sup>th</sup> Floor  
City, State and Zip Code NY, NY 10014

NOTE: This form was prepared by the New York State Department of State. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores. The Department of State recommends that all documents be prepared under the guidance of an attorney. The certificate must be submitted with a \$20 filing fee.

STATE OF NEW YORK  
DEPARTMENT OF STATE

For Office Use Only

MAY 06 2003

FILED  
TAXS  
BY: [Signature]  
NEWY

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