

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

**COMMITTEE DAY**

**AGENDA**

*November 17, 2016*

*9:30 a.m.*

- New York State Department of Health Offices at 90 Church Street, 4<sup>th</sup> Floor, Rooms 4A and 4B,  
NYC

**Video Sites:**

- New York State Department of Health Offices at 584 Delaware Avenue,  
3<sup>rd</sup> Floor Video Conference Room, **Buffalo**, New York 14202
- New York State Department of Health Offices at the Triangle Building, 335 East Main Street,  
1<sup>st</sup> Floor Conference Room, **Rochester**, New York 14604
- New York State Department of Health Offices at the Corning Tower, 14<sup>th</sup> Floor, CR #1, **Albany**,  
New York 12237

**I. JOINT MEETING OF THE PUBLIC HEALTH COMMITTEE AND THE AD HOC COMMITTEE TO LEAD THE PREVENTION AGENDA**

Jo Ivey Boufford, M.D., Chair, Public Health Committee

**II. 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. 161325 C	University Hospital (Suffolk County)
2. 161345 C	Jamaica Hospital Medical Center (Queens County)

**Cardiac Services – Construction**

**Exhibit # 2**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>
1. 152391 C	Peconic Bay Medical Center (Suffolk County)
2. 161168 C	Southampton Hospital (Suffolk County)

**Diagnostic and Treatment Centers - Construction**

**Exhibit # 3**

<u>Number</u>	<u>Applicant/Facility</u>
1. 162095 C	Weill Cornell Imaging at New York Presbyterian (New York County)

**Hospice Services - Construction**

**Exhibit # 4**

1. 162096 C	Good Shepherd Hospice (Suffolk County)
2. 162134 C	United Hospice of Rockland (Rockland County)

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

**Acute Care Services – Establish/Construct**

**Exhibit # 5**

<u>Number</u>	<u>Applicant/Facility</u>
1. 161464 E	Massena Memorial Hospital (St. Lawrence County)

**Ambulatory Surgery Centers - Establish/Construct**

**Exhibit # 6**

<u>Number</u>	<u>Applicant/Facility</u>
1. 162011 B	Queens Surgical Center (Queens County)
2. 162112 E	Hudson Valley Center for Digestive Health (Westchester County)

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

**Exhibit # 7**

<u>Number</u>	<u>Applicant/Facility</u>
1. 161431 E	Hudson Valley Regional Community Health Centers, Inc. (Putnam County)
2. 162209 E	Bedford Medical Family Health Center Inc (Kings County)

**Dialysis Services - Establish/Construct**

**Exhibit # 8**

<u>Number</u>	<u>Applicant/Facility</u>
1. 161356 B	USRC Forest Hills, LLC d/b/a U.S. Renal Care Forest Hills Dialysis (Queens County)

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

**Exhibit # 9**

<u>Number</u>	<u>Applicant/Facility</u>
1. 161097 E	VillageCare Rehabilitation and Nursing Center (New York County)
2. 161180 E	Nesconset ZJ1 LLC d/b/a Nesconset Center for Nursing and Rehabilitation (Suffolk County)
3. 161181 E	Huntington Acquisition 1, LLC d/b/a Hilaire Rehab & Nursing (Suffolk County)
4. 161338 E	Riverdale SNF, LLC d/b/a Schervier Nursing Care Center (Bronx County)
5. 161413 E	Beach Terrace Care Center (Nassau County)
6. 161450 E	Grandell Rehabilitation and Nursing Center (Nassau County)
7. 161452 E	Oceanside Care Center, Inc. (Nassau County)
8. 162092 E	CNH Operating, LLC d/b/a The Chateau at Brooklyn Rehabilitation and Nursing Center (Kings County)
9. 162120 E	170 West Avenue Operating Company, LLC d/b/a Elderwood at Lakeside at Brockport (Monroe County)
10. 162229 E	1019 Wicker Street Operating Company, LLC d/b/a Elderwood at Ticonderoga (Essex County)

**Certified Home Health Agency - Establish/Construct**

**Exhibit #10**

<u>Number</u>	<u>Applicant/Facility</u>
1. 161477 E	Premier Home Health Care Services, Inc. (New York County)

**C. Home Health Agency Licensures**

**Home Health Agency Licensures**

**Exhibit # 11**

**New LHCSAs – Affiliated with Assisted Living Programs (ALPs)**

161454 E	Cobbs Hill Manor, Inc. (Monroe County)
162015 E	Argyle Center LHCSA, LLC d/b/a Centers Home Care North East (Albany, Essex, Montgomery, Schenectady, Columbia, Fulton Rensselaer, Warren, Dutchess, Greene Saratoga and Washington Counties)
162016 E	Bath Center LHCSA, LLC d/b/a Centers Home Care West (Chemung, Ontario, Yates, Genesee, Schuyler, Livingston, Steuben, Monroe and Wayne Counties)

**Changes of Ownership**

<b><u>Number</u></b>	<b><u>Applicant/Facility</u></b>
152285 E	Helping U Homecare, Inc. (New York, Richmond, Kings, Bronx, Queens, and Nassau Counties)
161111 E	Crown of Life Care NY, LLC (Bronx, Queens, Kings, Richmond, Nassau and New York Counties)
161146 E	All Metro Aids, Inc. d/b/a All Metro Health Care (New York, Queens, Bronx, Richmond and Kings Counties)
161147 E	All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care (Nassau County)
161392 E	Paramount Homecare Agency Inc. (Kings, Bronx, Queens, Richmond, New York, and Nassau Counties)
161424 E	Robynwood Home Care LLC d/b/a Robynwood Home Care (Otsego, Delaware, Schoharie and Chenango Counties)
162038 E	Extended Holding Company, LLC d/b/a Extended at Home Care (New York, Queens, Bronx, Richmond, Kings, and Nassau Counties)

- 162061 E Best Help Home Care Corp.  
(Kings, Queens, Bronx, Richmond, New York and  
Westchester Counties)
- 162067 E DOJ LHSCA Operations Associates LLC  
d/b/a Claremont LHCSA  
(Bronx County)
- 162119 E A.V. Pro Services, Inc.  
d/b/a Assisted Home Care Services  
(Kings, Bronx, Queens, Nassau, Richmond, and  
New York Counties)
- 162137 E AllHealth Home Care LLC  
(Bronx, Queens, Kings, Richmond, New York and  
Westchester Counties)

**D. Certificates**

**Exhibit # 12**

**Certificate of Amendment of the Certificate of Incorporation**

Applicant

The Southampton Hospital Association

Daughters of Jacob Nursing Home Company, Inc.

**III. JOINT MEETING OF THE PUBLIC HEALTH COMMITTEE AND THE HEALTH  
PLANNING COMMITTEE**

Jo Ivey Boufford, M.D., Chair of the Public Health Committee

John Rugge, M.D., Chair of the Health Planning Committee



**Project # 161325-C  
University Hospital**

**Program: Hospital  
Purpose: Construction**

**County: Suffolk  
Acknowledged: May 11, 2016**

**Executive Summary**

**Description**

Stony Brook University Hospital (SBUH), a 603-bed academic medical center located at 101 Nicolls Rd, Stony Brook (Suffolk County), requests approval to certify Eastern Long Island Hospital (ELIH), a 90-bed community hospital located at 201 Manor Place, Greenport (Suffolk County), as a division of SBUH through an Integration and Affiliation Agreement (IAA). Included in the acquisition are two extension clinics: Quannacut Outpatient Services, an outpatient Chemical Dependence and Rehabilitation Clinic located at 814 Harrison Avenue, Riverhead (Suffolk County) and Gladys Brooks Sports Rehab Center, an outpatient physical therapy clinic located at 46520 North Road, Southold (Suffolk County). Upon approval of the Public Health and Health Planning Council (PHHCP) and execution of the IAA between the Eastern Long Island Hospital Association (ELIHA), the owner and operator of ELIH, and the State University of New York (SUNY), SBUH will operate ELIH as a Division and under the SBUH's operating certificate and Medicare and Medicaid provider numbers.

In association with the IAA, SUNY will lease certain employees from ELIH through a to-be-formed, single-member limited liability company, to-be-registered as a Professional Employer Organization (PEO) under the laws of New York State. Under the PEO agreement, SBUH will maintain the employment of individuals in good standing and employed at ELIH, or otherwise employed by ELIH in connection with ELIH operations, and will provide the PEO with all funds needed to make payments consistent with the compensation and benefits plans, and collective bargaining rights and union

memberships in place prior to the Execution Date. ELIH will pay an additional 0.5% to the PEO as a fee for services provided.

There will be no change in beds or services as a result of this application.

ELIH is the second hospital with which SBUH will be affiliating to develop Stony Brook Medicine, a Network of regional hospitals, primary care providers, specialists, nursing homes and rehabilitations centers. A primary goal of SBUH is to create a regional, population-based health management program to improve the health of target populations, reduce the cost of care, and improve the patients' experience of care. ELIH is a major provider of services in the eastern and central areas of Suffolk County and deemed an essential partner to the development of SBUH's Network to bring population-based health care to Suffolk County's North Fork.

Previously, under CON 152083, the applicant received contingent approval for the certification of Southampton Hospital (SH) as a division of Stony Brook University Hospital.

BFA Attachment A provides an organizational chart of the entities post integration and affiliation.

OPCHSM Recommendation  
Contingent Approval

### Need Summary

The purpose of this project will be to collaborate with providers and promote access to subspecialists where services may be lacking, specifically in the Eastern Suffolk county area. There will not be any change in beds or services and there is no anticipated impact on utilization with this project.

### 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 is no purchase price associated with this application. Total project costs for consulting and legal fees are estimated at \$214,640 to be paid from accumulated funds.

The applicant submitted an incremental operating budget, in 2016 dollars, for the first year subsequent to the acquisition:

<u>Budget</u>	
Revenues	\$50,417,838
Expenses	<u>\$49,405,064</u>
Excess of Revenues over Expenses	\$1,012,774
<u>Enterprise Budget</u>	
Revenues	\$1,342,330,397
Expenses	<u>\$1,324,475,719</u>
Excess of Revenues over Expenses	\$17,854,678

## 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 documentation of approval by the Office of Mental Health, acceptable to the Department. [PMU]
3. Submission of documentation of approval by the Office of Alcoholism and Substance Abuse, acceptable to the Department. [PMU]
4. Submission of an executed Integration and Affiliation Agreement, acceptable to the Department of Health. [BFA]
5. Submission of an executed Lease Agreement, acceptable to the Department of Health. [BFA]
6. Submission of an executed Professional Employment Agreement, acceptable to the Department of Health. [BFA]
7. Submission of a photocopy of the applicant's executed Trademark License Agreement, acceptable to the Department. [CSL]
8. Submission of a photocopy of the applicant's executed Professional Employer Agreement, acceptable to the Department. [CSL]
9. Submission of a photocopy of the applicant's executed lease agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's executed Integration and Affiliation Agreement, acceptable to the Department. [CSL]
11. Submission of a photocopy of the applicant's executed Assignment and Assumption Agreement, acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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. Submission of a photocopy of the applicant's executed Bill of Sale, acceptable to the Department. [CSL]

Council Action Date

**December 8, 2016**

# Need Analysis

## Background

Stony Brook University Hospital (SBUH), a 603-bed academic medical center located at 101 Nicolls Rd, Stony Brook (Suffolk County), requests approval to certify Eastern Long Island Hospital (ELIH), a 90-bed community hospital located at 201 Manor Place, Greenport (Suffolk County), as a division of SBUH. The following two extension clinics are included in the SBUH acquisition:

- Gladys Brooks Sports Rehab Center - 46520 North Road, Southold, NY 11971
- Quannacut Outpatient Services - 814 Harrison Avenue, Riverhead, NY 11901

Below are the services and bed type configurations for the respective facilities:

**Table 1 - Eastern Long Island Hospital Services**

Ambulatory Surgery - Multi Specialty	Medical Services - Other Medical Specialties
Chemical Dependence - Detoxification	Medical Services - Primary Care
Chemical Dependence - Rehabilitation	Medical Social Services
Chemical Dependence - Rehabilitation O/P	Medical/Surgical
Chemical Dependence - Withdrawal O/P	Nuclear Medicine - Diagnostic
Clinical Laboratory Service	Podiatry O/P
Coronary Care	Psychiatric
Emergency Department	Radiology - Diagnostic
Intensive Care	Therapy - Physical O/P
Lithotripsy	

Source: HFIS

**Table 2 - University Hospital Stony Brook Services**

University Hospital Services	Medical Services - Other Med Specialties
Ambulance	Medical Services - Primary Care
Ambulatory Surgery - Multi Specialty	Medical Social Services
Audiology O/P	Medical/Surgical
Burn Center	Neonatal Continuing Care
Burns Care	Neonatal Intensive Care
Cardiac Catheterization - Adult Diagnostic	Neonatal Intermediate Care
Cardiac Catheterization - Electrophysiology (EP)	Nuclear Medicine - Diagnostic
Cardiac Catheterization - PCI	Nuclear Medicine - Therapeutic
Cardiac Surgery - Adult	Pediatric
Certified Mental Health Services O/P	Pediatric Intensive Care
Clinical Laboratory Service	Psychiatric
Comprehensive Psychiatric Emergency Program	Radiology - Diagnostic
Coronary Care	Renal Dialysis - Acute
Emergency Department	Therapy - Occupational O/P
Intensive Care	Therapy - Physical O/P
Linear Accelerator	Therapy - Speech Language Pathology
Lithotripsy	Transplant - Bone Marrow
Maternity	Transplant - Kidney

Source: HFIS

**Table 3 - Eastern Long Island Hospital Bed Configuration**

<u>Bed Type</u>	<u>Count</u>
Chemical Dependence - Rehab	20
Chemical Dependence - Detox	10
Coronary Care	3
Intensive Care	3
Medical / Surgical	31
Psychiatric	23
<b>Total</b>	<b>90</b>

Source: HFIS

**Table 4 - University Hospital Stony Brook Bed Configuration**

<u>Bed Type</u>	<u>Count</u>
Bone Marrow Transplant	10
Burns Care	6
Coronary Care	10
Intensive Care	52
Maternity	36
Medical / Surgical	355
Neonatal Continuing Care	10
Neonatal Intensive Care	20
Neonatal Intermediate Care	16
Pediatric	38
Pediatric ICU	10
<b>Total</b>	<b>563</b>

Source: HFIS

#### Analysis

Per the applicant, compared to Suffolk County as a whole, the targeted service area has a higher percentage of people age 65 and older (27.4% vs 15.4%). The targeted area also has a lower average household income than the County overall. In many specialties SBUH and ELIH's combined regional market share exceeds 60%, including Psych/Drug Abuse (77.8%), General Medicine (62.4%), Neurology (64.6%), Pulmonary (69.2%), Neurosurgery (87.5%) and Gastroenterology (62%). Therefore, from an inpatient standpoint, there is a strong case for clinical integration and care coordination between the two facilities.

#### Conclusion

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

#### Recommendation

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

## Program Analysis

#### Program Description

Stony Brook University Hospital (SBUH) requests approval to acquire Eastern Long Island Hospital (ELIH) and certify it as a new division of SBUH to be known as Stony Brook Medicine Eastern Long Island Hospital.

SBUH is a teaching hospital that serves as the region's only tertiary care center and Level I trauma center. SBUH provides a full range of medical and surgical services, including psychiatry, cardiac care,

trauma care, neonatal and perinatal care, and women’s health care. Additionally, it provides outpatient services and operates 20 Article 28 extension clinics.

Eastern Long Island Hospital is a not-for-profit acute care hospital with a mission to provide essential healthcare services to the residents of the North Fork and Shelter Island. ELIH provides access to a wide variety of medical specialties including geriatric, digestive disease, interventional pain and behavioral health services. ELIH operates two Article 28 extension clinics which are part of the acquisition.

Through this acquisition, SBUH aims to create a regional, population-based health management program that addresses the preventive and chronic care needs of all patients served by Stony Brook or network partners, reduce the cost of care and improve patients’ experience of care. There will be no change in authorized services or number or types of beds as a result of this application.

**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**

**Integration and Affiliation Agreement**

The applicant provided a draft Integration and Affiliation Agreement, which is summarized below:

Purpose:	Lease of property, plant and equipment constituting ELIH and the Related Healthcare Facilities to SUNY through SBUH, and transfer of operations and certain non-fixed assets of ELIH to SUNY and integrated into SBUH.
Assets Transferred:	Assets transferred to SBUH include: Accounts receivable; other receivables, including “Due From Affiliates” (excluding receivables customarily belonging to ELIH Foundation or as set forth on the ELIHA Consolidating Balance Sheet), and inventory will be assigned to SBUH on the Closing Date for use in the ELI Hospital Operations; Prepaid expenses and other current assets will be transferred to a SUNY-designated SBUH account; cash and cash equivalents not included in the following: ELIHA will retain cash and cash equivalents needed to fully satisfy ELIHA’s outstanding line of credit to Bridgehampton National Bank or that is otherwise restricted as to use; Real Property and Fixed Assets excluding those belonging to the ELIH Foundation, leased or owned or limited as to use (net of current portion) will remain with ELIHA and be leased or subleased to SBUH; and deferred bond cost, net. ELIH Foundation will retain all cash and cash equivalents belonging to the ELIH Foundation. Unrestricted assets that reflect ELIHA’s retained earnings will be distributed between ELIHA and SUNY.
Liabilities Transferred:	Liabilities transferred to SUNY include amounts due from ELIHA to third-party payors and all liabilities of ELIHA and the ELIH Entities relating to ELI Hospital Operations. ELIHA will retain liabilities as follows: The line of credit to ELIHA will remain on ELIHA’s balance sheet; unless otherwise transferred, any liabilities relating to professional services or medical malpractice, of a type covered by property/casualty insurance, of a type covered by employment practices liability insurance, or relating to compliance; and long term debt and other ELIHA Bond related fee obligations will remain on ELIHA’s balance sheet, but SUNY will pay such amounts when due as part

	of its rental obligation. All accrued payroll and related withholdings liabilities, accrued pension liability and accrued and unused vacation, personal days, accrued sick days and other paid time off will transfer to ELIHA PEO and be paid by SUNY as part of its payment obligations under the Professional Employer Agreement.
Governance:	From the Closing Date, and throughout the lease term, a joint advisory committee composed of 13 members (ten appointed by ELIHA and three appointed by SBUH).
Closing:	Due at Closing: executed copy of the Operating Lease; executed copies of the following: Assignment and Assumption Agreement, Intellectual Property Agreement, Professional Employer Agreement and Medical Records Agreement; assignments, rights to accounts receivables and offer documents as mutually agreed to by the Parties; assignment to SUNY of all of ELIHA's right, title and interest in the business, assets or operations of ELIHA; proof of assignment of all of the Assigned Permits and Approvals; copies of resolutions adopted by the directors of ELIHA authorizing and approving the transactions; certificates of incumbency, existence and good standing; recent UCC lien search showing no liens on any of ELI Hospital, the Facilities, or on any of the Inventory or other assets; keys, passwords and combinations to ELI Hospital the Facilities and the Related Healthcare Facilities; inventory; copies, of all Assigned Contracts; all plans, surveys, lease files, warranties, guaranties and records of repairs and maintenance relating to the Facilities; Business Associate Agreements; and instruments and documents as ELIHA and/or SUNY reasonably deem necessary to effect the Transactions.

SBUH has submitted an affidavit, acceptable to the Department of Health, in which they agree, notwithstanding any agreement, arrangement or understanding between SBUH and ELIHA to the contrary, to be liable and responsible for any Medicaid overpayments made to ELIHA and/or surcharges, assessments or fees due to ELIHA pursuant to Article 28 of the Public Health Law with respect to the period of time prior to SBUH acquiring its interest, without releasing ELIHA of its liability and responsibility.

#### Lease Agreement

In association with the IAA, a draft lease has been submitted to lease the real property, as summarized below:

Premises:	The ELI Hospital and each of the Facility premises
Landlord:	Eastern Long Island Hospital Association
Tenant:	The State University of New York acting through its SBUH
Term:	30 years
Rent:	Landlord's payment obligations under the ELIHA Bonds; amounts due regarding Hazardous Materials; taxes and other costs regarding utilities and services and real estate taxes and assessments; costs incurred by Landlord on behalf of ELIH Hospital that have been approved in the ELI Hospital annual budget or otherwise approved in writing by Tenant; and all reasonable continuing expenses of Landlord not related to the ELI Hospital Operations (such as audit fees, legal expenses, directors' and officers' insurance) that are approved by Tenant.
Provisions:	Utilities, Taxes, Repairs and Insurance.

Professional Employer Agreement

In association with the IAA, and material to the above Lease Agreement, the applicant submitted a draft agreement for SUNY to lease certain employees from ELIHA through a to-be-formed, single-member limited liability company, to be registered as a PEO under the laws of NYS. The terms of the PEO agreement are as follows:

Worksite Employees:	Certain of ELIHA's employees to provide the same services at the Premises, as defined by the IAA, that such employees were providing immediately prior to the IAA's Closing Date.
Employer:	ELIHA PEO, Eastern Long Island Hospital Association's to-be-formed single member LLC, to-be-registered as a Professional Employer Organization,
Client:	State University of New York through SBUH
Term:	30 years
Payment:	All annual funds needed for ELIHA PEO to make the payments consistent with the compensation and benefits plans, programs and arrangements in place prior to the Closing Date, and all other actions required hereunder by ELIHA PEO; the deficiency from available free cash arising from ELI Hospital Operations paid as a Working Capital Advance; interest, late fees and charges imposed by third parties as a result of SUNY's failure to pay; and all other costs incurred by ELIHA PEO with respect to Assigned Contracts. SBUH will pay an additional 0.5% to the PEO as a fee for services provided and pay for the following accrued liabilities: accrued payroll and related withholdings liabilities; actuarially determined additional funding obligations and accrued pension liability; accrued obligations of ELIHA under the benefit plans; accrued and unused vacation, personal days, accrued sick days and other paid time off remaining on ELIHA's Consolidating Balance Sheet as of the Closing Date; and pension withdrawal liability assessed.
Additional conditions:	The employment of the ELIHA PEO Employees shall at all times be subject to the terms and conditions set forth in any applicable collective bargaining agreements; ELIHA PEO shall obtain, keep and maintain, without limitation, substantially the same insurance coverages that ELIHA had for itself; ELIHA PEO agrees to secure and provide required workers' compensation and disability insurance coverage.

Total Project Cost and Financing

Total project costs are estimated at \$214,640, broken down as follows:

Other Fees	\$211,477
Application Fees	\$2,000
Additional Processing Fees	<u>\$1,163</u>
Total	\$214,640

The applicant will finance the above from accumulated funds.

There is no construction associated with this project. BFA Attachment B is the 2014 and 2015 certified financial statements of Stony Brook University Hospital, which indicates the availability of sufficient resources to fund the project.

## Operating Budget

The applicant has submitted an operating budget for the combined SBUH/SH/ELIH operations, in 2016 dollars, for the first year of operation, as summarized below:

<u>Revenues</u>	<u>Year One</u>
Operating Revenues	\$1,285,250,197
Non-Operating Revenues	<u>57,080,200</u>
Total Revenues	\$1,342,330,397

<u>Expenses</u>	
Operating	\$1,247,304,944
Capital	<u>77,170,775</u>
Total Expenses	\$1,324,475,719

Excess of Revenues over Expenses                      \$17,854,678

<u>Utilization</u>	
Inpatient (Discharges)	46,771
Outpatient (Visits)	753,439

The following is noted with respect to the submitted budget:

- The budget includes Stony Brook University Hospital, Eastern Long Island Hospital and Southampton Hospital. The applicant received contingent approval to certify Southampton Hospital as a division of Stony Brook University Hospital under CON 152083.
- Revenues are based on the hospitals' historical experience incorporating projected inpatient and outpatient volume increases between the current year and year one.
- Non-operating revenues include New York State appropriations.
- The applicant states that the project makes no assumption of increasing payor rates through increased negotiating power.
- Staffing and patient mix were determined based on historical staffing and predicted market share.
- Overall expenses are expected to increase approximately 2%, including a slight decrease in depreciation and rent.
  - ELIH uses the straight-line method to amortize and/or depreciate its plant & equipment over the shorter of its useful life or lease terms.
  - SBUH depreciates its equipment using half-year convention for the first year on computer equipment over \$500 and other items over \$1500. Major Moveable Equipment is depreciated using month in service.

Utilization for the combined SBUH/SH/ELIH operations by payor source for inpatient and outpatient services is projected as follows:

	<u>Inpatient</u>	<u>Outpatient</u>
Medicaid Fee For Service	5.64%	18.30%
Medicaid Managed Care	16.66%	23.11%
Medicare Fee For Service	29.12%	28.86%
Medicare Managed Care	6.10%	3.76%
Commercial Fee For Service	22.36%	5.27%
Commercial Managed Care	11.68%	12.47%
Private Pay	5.74%	4.20%
Charity Care	0.39%	0.65%
All Other	2.31%	3.38%

Volume by payer is expected to increase approximately 2.4% for inpatient admissions and 5.4% for outpatient visits. Volume by payer was projected utilizing historical data.

## Capability and Feasibility

There are no issues of capability associated with this application.

The submitted budget indicates an excess of revenues over expenses of \$17,854,678 during the first year for the combined SBUH/SHH/ELIH operations. If SHH were removed, the excess of revenues over expenses would be \$3,276,068.

BFA Attachment B is the 2014-2015 certified financial statements of Stony Brook University Hospital. As shown, the entity had a positive working capital position and an average positive net asset position for the period shown. The entity shows an operating loss in both 2014 and 2015. However, with the addition of non-operating revenues, including New York State appropriations, the facility achieved an average excess of revenues over expenses of \$11,537,000. BFA Attachment D is the internal financials of Stony Brook University Hospital as of June 30, 2016, which shows a positive working capital position, positive net asset position and an excess of revenues over expenses of \$15,998,000.

BFA Attachment C is the 2014-2015 certified financial statements of Eastern Long Island Hospital and Affiliates. As shown, the entity had a positive working capital position and an average positive net asset position for the period shown. The entity shows a deficiency of revenue over expenses in 2014 and 2015 of \$118,486 and \$1,559,330, respectively. BFA Attachment E is the internal financial statements of Eastern Long Island Hospital and Affiliates as of June 30, 2016, which shows a positive working capital position and an average positive net asset position for the period shown. The applicant primarily attributes the deficiencies to non-recurring consulting and legal expenses resulting from ELIH's proposal to combine with another Long Island health system. The applicant anticipates that the expenses will not occur after ELIH joins the Stony Brook Medicine system and expects cost savings once ELIH is able to access SBUH contracts for purchasing supplies.

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.**

## Attachments

BFA Attachment A	Organizational Chart Post Integration and Affiliation
BFA Attachment B	Stony Brook University Hospital, Certified Financial Statements 2014-2015
BFA Attachment C	Eastern Long Island Hospital, Certified Financial Statements 2014-2015
BFA Attachment D	Stony Brook University Hospital, Internal Financial Statement as of June 30, 2016
BFA Attachment E	Eastern Long Island Hospital, Internal Financial Statement as of June 30, 2016



**Project # 161345-C  
Jamaica Hospital Medical Center**

**Program: Hospital  
Purpose: Construction**

**County: Queens  
Acknowledged: May 27, 2016**

**Executive Summary**

**Description**

Jamaica Hospital Medical Center (JHMC) is a 408-bed, voluntary not-for-profit, acute care hospital located at 89th Avenue & Van Wyck Expressway, Jamaica (Queens). The hospital is licensed under Article 28 of the Public Health Law and Article 31 of the Mental Hygiene Law. JHMC requests approval to convert six pediatric beds to six psychiatric beds. Upon approval by the Public Health and Health Planning Council (PHHPC), the licensed psychiatric beds will increase from 50 to 56 and the pediatric beds will decrease from 30 to 24.

On September 20, 2013, the Office of Mental Health (OMH) granted JHMC temporary approval to add six psychiatric beds to compensate for prior and anticipated psychiatric unit closers in the area. The beds have consistently remained full, and the hospital now requests they be made permanent. On May 27, 2016, OMH granted JHMC approval to formally add the six psychiatric beds to their Article 31 operating certificate, contingent upon confirmation of the Department of Health's Article 28 approval.

OPCHSM Recommendation  
Contingent Approval

**Need Summary**

Jamaica Hospital Medical Center has an overall inpatient occupancy of 80.7% and has been experiencing psychiatric occupancy above

100%. In September of 2013, the Center added six temporary psychiatric beds at the request of OMH to compensate for the closure of St Vincent's Hospital. These beds have been fully occupied since then, and the Hospital is requesting that they be permanently added to the operating certificate. This project would also involve the downsizing of the Center's underutilized pediatric ward by decertifying six beds, leaving the total number of beds at the hospital unchanged.

**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**

Total project costs of \$180,979 will be met with \$140,979 in liquid resources and \$40,000 in employee labor. Labor will be performed by engineering personnel currently employed by JHMC. The budget is as follows:

Revenues	\$19,944,101
Expenses	<u>19,343,252</u>
Gain	\$600,849

## 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. A copy of the check must be uploaded into NYSE-CON upon submission. [PMU]
2. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-02 Hospitals. (AER).

**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 Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
3. Construction must start on or before January 1, 2017 and construction must be completed by March 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. [PMU]

Council Action Date

**December 8, 2016**

## Need Analysis

### Background

Jamaica Hospital Medical Center is a 408-bed not-for-profit Hospital located at 89<sup>th</sup> Avenue & Van Wyck Expressway, Jamaica, 11418, in Queens County. This facility is proposing to convert six pediatric beds to six psychiatric beds, leaving the total number of approved beds constant. No other changes to the operating certificate are being proposed.

### Need Summary

Jamaica Hospital Medical Center has an overall inpatient occupancy of 80.7% and has been experiencing psychiatric occupancy above 100%. In September of 2013, the Center added six temporary psychiatric beds at the request of OMH to compensate for the closure of St Vincent's Hospital. These beds have been fully occupied since then, and the Hospital is requesting that they be permanently added to the operating certificate. This project would also involve the downsizing of the Center's underutilized pediatric ward by the decertification of six pediatric beds, leaving the total number of beds at the hospital unchanged.

### Analysis

Jamaica Hospital Medical Center is certified to provide the following beds:

Bed Category	Certified Capacity	Requested Action	Certified Capacity Upon Completion
Coronary Care	4	0	4
Intensive Care	8	0	8
Maternity	40	0	40
Medical / Surgical	228	0	228
Neonatal Continuing Care	4	0	4
Neonatal Intensive Care	5	0	5
Neonatal Intermediate Care	10	0	10
Pediatric	30	(6)	24
Physical Medicine and Rehab	22	0	22
Psychiatric	50	6	56
Transitional Care	7	0	7
<b>Total</b>	<b>408</b>	<b>0</b>	<b>408</b>

Source: HFIS

Historical occupancy statistics are provided below. Psychiatric occupancy has consistently been over 100%, and pediatric occupancy has fallen below 40%. This bed conversion is necessary to treat the existing volume of psychiatric patients at the Hospital. Upon approval, inpatient psychiatric occupancy will decline from 115.4% to 103.0%, and Pediatric occupancy will increase from 35.2% to 44.0%.

Major Service Category	Certified Beds	2011	2012	2013	2014	2015
General Medical/Surgical	269	86.8%	79.1%	75.8%	81.1%	83.2%
Pediatric	30	44.6%	41.5%	37.1%	37.0%	35.2%
Obstetric	40	60.7%	55.9%	54.3%	54.1%	55.6%
General Psychiatric	50	96.7%	104.5%	111.4%	107.6%	115.4%
High-Risk Neonates	19	77.1%	58.1%	55.9%	56.2%	54.2%
<b>Inpatient Total</b>	<b>408</b>	<b>82.7%</b>	<b>77.1%</b>	<b>75.5%</b>	<b>78.9%</b>	<b>80.7%</b>

Source: SPARCS, 2016

## Conclusion

Jamaica Hospital Medical Center has maintained a psychiatric occupancy over 100% since 2012, even while operating six temporary beds. Permanently certifying these beds will ensure continued access to inpatient psychiatric care without increasing the number of certified beds at the hospital. The Hospital is well-utilized overall and will be reducing the underutilized pediatric service through this proposal.

## Recommendation

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

# Program Analysis

## Program Proposal

Jamaica Hospital Medical Center, an existing 408-bed hospital, located at 8900 Van Wyck Expressway in Jamaica (Queens County), requests approval to convert six pediatric beds to psychiatric beds. If approved, the hospital's licensed psychiatric beds will increase to 56 from the current 50, and pediatric beds will decrease from 30 to 24.

The Hospital had added six temporary psychiatric beds in September 2013 at the request of the Office of Mental Health in order to compensate for prior and anticipated psychiatric unit closures in the area. The beds have remained full since then, and the Hospital recognizes the need for these beds on a permanent basis.

There will be no programmatic or staffing changes as a result of this project.

## 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 complaints.

## Conclusion

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.

## Recommendation

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

## Financial Analysis

### Total Project Cost and Financing

Total project costs for renovations is estimated at \$180,979, broken down as follows:

Renovation & Demolition	\$140,000
Design Contingency	14,000
Construction Contingency	14,000
Other Fees	10,000
CON Application Fee	2,000
CON Processing Fee	<u>979</u>
Total Project Cost	\$180,979

Project costs are based on a start date of January 1, 2017, with a three-month construction period.

The applicant's financing plan appears as follows:

Cash equivalents	\$140,979
Employee labor	<u>40,000</u>
Total	\$180,979

BFA Attachment A is Jamaica Hospital Medical Center and Affiliate's 2014-2015 certified financial summary and internal financial summary as of June 30, 2016, which shows \$3,939,000 in investments in 2015 and \$5,593,417 in cash and cash equivalents as of June 30, 2016.

### Incremental Operating Budget

The applicant has submitted their current year and first and third year incremental operating budget in 2016 dollars.

	<u>Current Year</u>		<u>First &amp; Third Years</u>	
	<u>Per Day</u>	<u>Total</u>	<u>Per Day</u>	<u>Total</u>
<u>Inpatient Revenue</u>				
Medicaid FFS	\$968.71	\$4,302,056	\$968.71	\$4,302,056
Medicaid-MC	\$1,181.85	8,274,147	\$1,181.85	8,274,147
Medicare-FFS	\$947.84	3,105,135	\$1,008.89	3,305,135
Medicare-MC	\$1,146.28	2,621,546	\$1,146.28	2,621,546
Commercial-FFS	\$549.44	857,134	\$549.44	857,134
Private Pay	\$4,612.27	724,126	\$4,612.27	724,126
Bad Debt		(874,143)		(874,143)
Other Income (Charity Care Pool)		<u>734,100</u>		<u>734,100</u>
Total Inpatient Revenues		\$19,744,101		\$19,944,101
<u>Inpatient Expenses</u>				
Operating	\$1,009.79	\$19,020,389	\$1,009.79	\$19,020,389
Capital	<u>\$17.14</u>	<u>322,863</u>	<u>17.14</u>	<u>322,863</u>
Total Expense	\$1,026.93	\$19,343,252	\$1,026.93	\$19,343,252
Net Income		<u>\$400,849</u>		<u>\$600,849</u>
Inpatient Days		18,836		18,836
Utilization % (Inpatient Days)		92.15%		92.15%
Discharges		1,095		1,095

Utilization by payor for the current year and the first and third year is as follows:

<u>Payor</u>	<u>Current Year</u>		<u>First &amp; Third Years</u>	
	<u>Days</u>	<u>%</u>	<u>Days</u>	<u>%</u>
Medicaid-FFS	4,441	23.58%	4,441	23.58%
Medicaid-MC	7,001	37.17%	7,001	37.17%
Medicare-FFS	3,276	17.39%	3,276	17.39%
Medicare-MC	2,287	12.14%	2,287	12.14%
Commercial-FFS	1,560	8.28%	1,560	8.28%
Private Pay	157	.83%	157	.83%
Charity	<u>114</u>	<u>.61%</u>	<u>114</u>	<u>.61%</u>
Total	18,836	100%	18,836	100%

Expense and utilization assumptions are based on the hospital's historical psychiatric inpatient experience.

#### Capability and Feasibility

Total project costs of \$180,979 will be met from \$140,979 in liquid resources and \$40,000 in employee labor.

The submitted budget indicates an incremental net income of \$600,849 during the first year of operation, following approval. Revenues reflect current reimbursement methodologies for inpatient psychiatric services. The budget appears reasonable.

Review of BFA Attachment A, Jamaica Hospital Medical Center and Affiliate's 2014-2015 certified financial summary and June 30, 2016 internals, shows negative working capital, negative net assets, and loss from operations. The applicant indicated the following steps are being implemented to improve operations and mitigate losses:

- Increase ambulatory care capacity, assist community physicians to increase capacity and react quickly to changes in census;
- Bring affiliated D&TCs under the Hospital for enhanced reimbursement;
- Increase the number of value based reimbursement agreements (prior 12 months \$4 million positive excess medical revenues) and continue to achieve high quality scores (receiving a \$4 million bonus in 2016);
- Renegotiate manage care contracts and prevent inappropriate denials;
- Invest in systems and software to more efficiently manage information, reduce costs, succeed in a capitated environment, and in the New York State Delivery System Reform Incentive Payment (DSRIP) program;
- Participant in the Advocated Community Providers (ACT) DSRIP Performing Provider System (PPS). The Hospital is active in designing ACP's DSRIP funds flow model and anticipates funding offsetting DSRIP project costs;
- Enhance outpatient revenue upon receiving NCQA PCMH certification under 2014 standards for all its primary care facilities (expect approval between October through December 2016); and
- Implemented initiatives to improve patient satisfaction.

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

#### Recommendation

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

## Attachments

BFA Attachment A Jamaica Hospital Medical Center and Affiliate, 2014- 2015 Certified Financial Statement and June 30, 2016 Internal Financial Statement

## MEMORANDUM

**To:** Establishment and Project Review Committee  
Public Health and Health Planning Council

**From:** Charles P. Abel, Deputy Director  
Center for Health Care Facility Planning, Licensure and Finance

**Date:** November 9, 2016

**Subject:** Competitive Review of Long Island Cardiac Catheterization  
Applications

Two hospitals on Eastern Long Island have submitted CON applications requesting approval to initiate Cardiac Catheterization services: Peconic Bay Medical Center and Southampton Hospital. In accordance with the public need methodology delineated in Section 709.14 of Title 10 of NYCRR, there is need for only one additional Cardiac Catheterization provider. Thus, the projects were reviewed competitively.

The competitive review included an evaluation by Department staff and an ad hoc group from the Cardiac Advisory Committee. The Cardiac Advisory Committee is comprised of cardiac surgeons and cardiologists from around the country. Ad hoc committees convened to review CON projects or other proposals include only members not practicing in New York State with no conflicts or interests related to the proposals or applicants.

As evidenced in the attached exhibits, both projects would be approvable if not for the limitation of need based on current regulatory methodology. Both projects are programmatically, financially, and architecturally acceptable and have strong cardiac surgery partners. However, as only one application can be recommended for approval, the Peconic Bay Medical Center CON is deemed the preferred application due to its location, the advantage of it having two catheterization laboratories with one available for handling emergencies, and the existence of a helipad for enhanced accessibility. With a recommendation of approval for Peconic Bay Medical Center, the need in the region is considered met, precipitating a recommendation of disapproval on the basis of public need for the Southampton Hospital application.



**Project # 152391-C  
Peconic Bay Medical Center**

**Program:** Hospital  
**Purpose:** Construction

**County:** Suffolk  
**Acknowledged:** January 13, 2016

**Executive Summary**

**Description**

Peconic Bay Medical Center (PBMC), a 140-bed, voluntary not-for-profit, Article 28 acute care hospital, is seeking approval to certify Cardiac Catheterization-Adult Diagnostic, Electrophysiology (EP) and Percutaneous Cardiac Intervention (PCI) services, construct a two-laboratory cardiac catheterization suite and relocate their helipad. The proposed program will be operating with clinical oversight from Southside Hospital (Southside) in accordance with the terms of an executed clinical service agreement. The program will be located on-site at PBMC at 1300 Roanoke Avenue, Riverhead (Suffolk County).

Southside, a 321-bed, acute care hospital located on the south shore of Suffolk County, is a full-service cardiac surgery center. It is a member of Northwell Health, Inc. and is co-operated by Northwell Health Care, Inc., which is also a member of the Northwell Health, Inc. Southside serves residents of western Suffolk County and eastern Nassau County. PBMC serves residents of eastern Suffolk County.

PCMB is expanding its facility to accommodate a new cardiac catheterization and EP suite with two new connecting bridges to the facility, new elevators and stairs.

The new first floor will accommodate a shell space of approximately 5,970 square feet for future expansion of the Emergency Department. The fit out of this space will be submitted as a separate future CON, with a full fit-out of the elevators and stairs connecting the newly relocated and enlarged helipad to the second

floor and existing Emergency Department on the first floor, and an overbuild to maintain access to the current Ambulatory Entrance.

The new second floor will accommodate 17,850 square feet and contain two Cath/EP labs and one shelled space for a future Cath/EP lab with the required support spaces. The new Cath/EP Suite will also include prep-PACU with approximately nine bays and support spaces.

**OPCHSM Recommendation**  
Contingent Approval

**Need Summary**

Given discharge data and trends, one newly operational PCI program in the planning area can be expected to meet the minimum target of 200 procedures within two years of start-up as required by Section 709.14 without jeopardizing the required volume of 300 procedures at programs within one hour travel time. However, given the regulatory parameters, the planning area volume of procedures would not similarly support the addition of a second new PCI program.

**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**

Total project costs, inclusive of shell space, is \$42,791,898 and will be met with \$5,869,060 in accumulated funds and \$36,922,838 in DASNY

Tax-Exempt Bond financing over 30 years at 6.5%. The Bureau of Architectural and Engineering Review has determined that this project includes shell space costs of \$1,766,523 for future expansion. As a result, the total approved current Article 28 project cost for reimbursement purposes shall be limited to \$41,025,375 until such time that the shell space is approved for Article 28 use (under a future CON) by the Department. The applicant is funding 100% of the shell space cost with equity.

The incremental budget is as follows:

Revenues	\$10,075,300
Expenses	<u>10,159,200</u>
Gain(Loss)	(\$83,900)

Northwell Health Care, Inc. has submitted a letter from the CFO of Northwell Health, Inc. stating that Northwell Health will absorb the operational losses and support the PBMC Cardiac Cath 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 commitment for a permanent mortgage for the project to be provided from a recognized lending institution at a prevailing rate of interest that is determined to be acceptable by the Department of Health. This is to be provided within 120 days of approval of state hospital code drawings and before the start of construction. Included with the submitted permanent mortgage commitment must be a sources and uses statement and a debt amortization schedule, for both new and refinanced debt. (BFA)
3. Submission of State Environmental Quality Review (SEQR) Findings pursuant to 6 NYCRR Part 617.4(b) (6). [SEQ]
4. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in BAER Drawing Submission Guidelines DSG-02, for review and approval to include resolution of the following:
  - a. Revision of the egress capacity factors used in the NFPA 101 Egress Exit Capacity table on the Life Safety Plan.
  - b. Indicating compliance of the relocated existing Article 28 patient registration and visitor lounge spaces allocated for the proposed elevators in the DSG-02 design development submission.
  - c. Provision of plans at the DSG-02 design development submission indicating the revised scope of work as outlined in the revised CON applications Architectural Narrative sent to DOH.
  - d. Provision of a revised Life Safety Plan indicating a required second means of egress from the proposed helipad, complying with NFPA 418, 1995. [DAS]

**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. Construction must start on or before June 1, 2017 and construction must be completed by June 1, 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. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

**December 8, 2016**

# Need Analysis

## Project Description

Peconic Bay Medical Center (PBMC), a 140 bed hospital located at 1300 Roanoke Ave., Riverhead, Suffolk County and Southampton Hospital (SH), a 125 bed hospital located at 240 Meeting House Lane, Southampton, Suffolk County both seek to add PCI-capable cardiac catheterization and electrophysiology (EP) laboratory services. Although there is need for PCI services on eastern Long Island, the geography, demography, and trend of PCI procedures of the region is such that only one of these two proposals can be approved, thus, a competitive review was performed.

Peconic Bay Medical Center's proposal is to construct a new two-laboratory adult PCI-cardiac catheterization/electrophysiology suite with two bridges to the facility and construct a new (relocated and enlarged) helipad. PBMC proposed an affiliation with Southside Hospital, part of the new Northwell Health Care Inc. system, as their cardiac surgery partner.

Southampton Hospital's project would add one onsite adult PCI-capable cardiac catheterization/electrophysiology laboratory. Southampton proposed an affiliation with University Hospital (Stony Brook) as their cardiac surgery partner.

## Need Summary

Section 709.14 of Title 10 of NYCRR delineates the review criteria for public need of PCI Capable Cardiac Catheterization Laboratory Centers. Per the regulation, the planning area for determining the public need at hospitals with no cardiac surgery on-site is the area within a one hour average surface travel time.

<b>Suffolk County Hospitals PCI Discharges - PCI Statistics by Hospital of Service</b>					
<b>Facility</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014<sup>1</sup></b>	<b>2015<sup>2</sup></b>
Brookhaven Memorial Hospital Medical Center	0	0	19	303	358
Good Samaritan Hospital West Islip	700	629	665	951	1094
Huntington Hospital	257	306	517	538	555
Southside Hospital	572	615	766	683	767
St. Catherine of Siena Hospital	268	256	321	309	322
University Hospital (Stony Brook)	1,543	1,407	1,474	1,327	1515
<b>Total</b>	<b>3,340</b>	<b>3,213</b>	<b>3,762</b>	<b>4,109</b>	<b>4,611</b>
<b>Year-over-Year Increases</b>		<b>(127)</b>	<b>549</b>	<b>347</b>	<b>502</b>

Source: PCIRS

<sup>1</sup> Validation is essentially complete. These numbers are unlikely to change. Analysis is ongoing and expect report to be published within a few months.

<sup>2</sup> Substantial validation still to take place. There are likely to be some changes to the dataset.

<b>PCI Centers distance from Peconic Bay Medical Center</b>		
	<b>Distance (miles)</b>	<b>Travel Time (minutes)</b>
Brookhaven Memorial Hospital Medical Center	20.9	28
Good Samaritan Hospital West Islip	42.3	46
Huntington Hospital	44.6	55
Southside Hospital	36.9	43
St. Catherine of Siena Hospital	36.5	46
University Hospital (Stony Brook)	31.5	41

Source: Mapquest.com

<b>PCI Centers distance from Southampton Hospital</b>		
	<b>Distance (miles)</b>	<b>Travel Time (minutes)</b>
Brookhaven Memorial Hospital Medical Center	33.9	39
Good Samaritan Hospital West Islip	53.1	59
Huntington Hospital	59.9	74
Southside Hospital	49.1	56
St. Catherine of Siena Hospital	49.3	61
University Hospital (Stony Brook)	46.4	57

Source: Mapquest.com

Suffolk County's elderly population is expected to increase by 34.1 percent from 2015 to 2030, with populations in the North and South forks roughly comparable. Although statewide PCI discharges are decreasing overall, Suffolk County has seen a 23 percent increase in PCI procedures from 2011 to 2014.

As shown in the preceding tables, currently all of the facilities within a one hour travel time are performing greater than 300 annual PCI procedures. The two facilities with the lowest utilization, Brookhaven Memorial Hospital Medical Center and St. Catherine of Siena Hospital, continue to trend upward, along with all of Suffolk County. Additionally, Year-over-Year increases for the current providers averaged 318 additional cases per year from 2012 through 2015. However, for the general service area for the two proposals, the number of PCI procedures for the residents of the North Fork, the South Fork, and Central Eastern Long Island, has been dropping over the last three years, from 365 in 2013 to 312 in 2015.

Taken in their totality, these factors, including lengthy travel times, support the need for an additional PCI Capable Cardiac Catheterization Center in Suffolk County. However, the volume of PCI patients from the eastern Long Island area, while over 300 currently, is not enough to support two new programs or ensure that facilities within an hour travel time from the applicant locations can maintain the 300 procedure annual minimum prescribed in Section 709.14 of Title 10 of NYCRR with the addition of more than one new PCI facility.

#### Competitive Review

Given the need for only one new facility in the region, the two projects were reviewed competitively. On October 17, 2016, the Department presented both applications to an ad hoc group of the Cardiac Advisory Committee (CAC), an impartial advisory body comprised of renowned cardiac surgeons, cardiologists and related specialists, for clinical input. Committee members were asked to identify the strengths and weaknesses of the two proposals to assist the Department in determining if either project should be approved and, in the event both were deemed viable, which proposal was preferred. Reviewers noted that both proposals are attached to surgery-center affiliates with well-established programs and good outcomes.

Ultimately, the CAC cited three primary factors supporting an approval of PBMC's application over Southampton Hospital's:

- PBMC is more centrally located to serve residents of both the North and South forks of Long Island.
- PBMC is proposing to build two labs which would enable it to manage two simultaneous ST elevation MI (STEMI) cases or an emergent STEMI that presented during a scheduled case.
- PBMC is proposing to relocate and enlarge their helipad which would further improve timely access for emergency patients.

#### Conclusion

Given discharge data and trends, one newly operational PCI program in the planning area can be expected to meet the minimum target of 200 procedures within two years of start-up as required by Section 709.14 without jeopardizing the required volume of 300 procedures at programs within one hour travel time. However, given the regulatory parameters, the planning area volume of procedures would not similarly support the addition of a second new PCI program.

The Department of Health relies heavily on the expertise provided by the Cardiac Advisory Committee and agrees with its recommendation. The Department is recommending approval of the Peconic Bay Medical Center application based on PBMC's favorable location relative to the target population, the proposal for two labs allowing for the simultaneous treatment of emergency and elective cases and, the existence of a helipad for more expeditious transport of emergency cases.

Recommendation

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

## Program Analysis

### Project Description

Peconic Bay Medical Center (PBMC), a 140-bed, voluntary not-for-profit, Article 28 acute care hospital located at 1300 Roanoke Avenue in Riverhead (Suffolk County), requests approval to certify Cardiac Catheterization-Adult Diagnostic, Electrophysiology (EP) and Percutaneous Cardiac Intervention (PCI) services, and construct a helipad and a cardiac catheterization suite. The proposed program will be operating with clinical oversight from Southside Hospital (Southside) in accordance with the terms of an executed clinical service agreement. Southside Hospital is a 321-bed, acute care hospital located at 301 East Main Street in Bay Shore (Suffolk County) that is a full-service cardiac surgery center and member of Northwell Health, Inc.

The project aims to improve patient access to high-quality, coordinated diagnostic cardiac catheterization and PCI procedures, for residents in eastern Suffolk County, improve cardiac health outcomes, and improve the continuity of care within one health system.

The proposed cardiac catheterization program will be located on-site at PBMC. PCMB is expanding its facility to construct the new cardiac catheterization/EP suite in the second floor of a new two-story addition. The first floor will contain shell space (for future expansion of the Emergency Department) and the second floor will contain two Cath/EP labs and shell space for a possible future Cath/EP lab, with the required support spaces. In addition, the hospital will construct two new connecting bridges to the facility, new elevators and stairs and the helipad will be relocated and enlarged.

The project will result in PBMC's operating certificate changing to add the following certified services:

- Cardiac Catheterization - Adult Diagnostic
- Cardiac Catheterization - Electrophysiology (EP)
- Cardiac Catheterization - Percutaneous Coronary Intervention (PCI)

The Applicant has submitted a written plan that demonstrates their ability to comply with all of the standards for PCI Capable Cardiac Catheterization Laboratories and Cardiac Electrophysiology and they have assured the Department that their program will meet all of the requirements of 409.29(e)(1-3) and 409.29(e)(5).

### 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.

### Conclusion

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.

Recommendation

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

## Financial Analysis

### Clinical Services Agreement

The applicant has submitted an executed Clinical Services Agreement for Cardiac Surgery Center services and Cardiac Catheterization Laboratory services as follows:

Date:	December 22, 2015
Provider of Services	Southside Hospital located at 301 East Main Street, Bay Shore
Receiver of Services	Peconic Bay Medical Center located at 1300 Roanoke Avenue, Riverhead
Services rendered:	Southside Hospital will provide the following: back-up to laboratory patients who require Cardiac Surgery Center Services; quality improvement program; inclusion in Northwell's interventional database; training for personnel on the database; participate in a joint annual study on financial impact; involvement in research studies; and inclusions in registries and database; quality assurance activities; at least 10 meetings per year between health professionals; coverage in labs for 365 days per year, 24 hours per day and ongoing education and training.
Term:	Five years with a one-year renewal each year thereafter.

On January 15, 2016, PBMC joined Northwell Health, Inc. PBMC and Southside are members of Northwell Health, Inc., therefore there are no fees associated with the clinical services agreement.

This agreement will not take effect until PBMC receives CON approval by the New York State Department of Health to establish a cardiac catheterization laboratory program.

### Total Project Cost and Financing

Total project costs, inclusive of shell space, is \$42,791,898. The Bureau of Architectural and Engineering Review has determined that this project includes shell space costs of \$1,766,523 for future expansion. As a result, the total approved Article 28 project cost for Medicaid reimbursement purposes shall be limited to \$41,025,375 until such time that the shell space is approved for Article 28 use (under a future CON) by the Department. The applicant is funding 100% of the shell space cost with equity.

Total project costs for new construction, renovations and the acquisition of fixed and moveable equipment are broken down as follows:

	<u>Current Article 28</u>	<u>Shell Space</u>	<u>Inclusive Total</u>
New Construction	\$17,515,000	\$1,313,400	\$18,828,400
Renovation & Demolition	2,299,100	0	2,299,100
Site Development	1,200,000	0	1,200,000
Design Contingency	2,101,410	131,340	2,232,750
Construction Contingency	1,225,660	65,670	1,291,330
Fixed Equipment	630,423	39,402	669,825
Planning Consultant Fees	1,681,128	105,072	1,786,200
Architect/Engineering Fees	1,027,914	45,969	1,073,883
Construction Manager Fees	1,050,705	65,670	1,116,375
Movable Equipment	9,663,387	0	9,663,387
Telecommunications	445,000	0	445,000
Financing Costs	1,959,254	0	1,959,254
CON Application Fees	2,000	0	2,000
Additional Processing Fee	<u>224,394</u>	<u>0</u>	<u>224,394</u>
Total Project Cost	<u>\$41,025,375</u>	<u>\$1,766,523</u>	<u>\$42,791,898</u>

Project costs are based on a construction start date of a two-year construction period.

The applicant's financing plan appears as follows:

Equity	\$5,869,060
DASNY Tax-Exempt Bonds (30-year term @ 6.5%)	\$36,922,838

A letter of interest for the Bond financing has been submitted by the applicant from Citigroup.

#### 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>
<u>Inpatient Revenues</u>		
Medicare	\$4,045,900	\$4,040,600
Medicaid	321,600	320,200
Commercial	4,065,700	4,057,500
Private Pay	<u>522,200</u>	<u>520,900</u>
Total Inpatient Revenue	\$8,956,400	\$8,939,200
<u>Outpatient Revenues</u>		
Medicare	\$646,800	\$676,300
Medicaid	26,800	28,000
Commercial	367,800	384,600
Private Pay	<u>45,300</u>	<u>47,200</u>
Total Outpatient Revenue	\$1,086,700	\$1,136,100
Total Revenues	\$10,043,100	\$10,075,300
<u>Inpatient Expenses</u>		
Operating	\$3,970,600	\$3,964,000
Capital	<u>4,136,100</u>	<u>4,084,400</u>
Total Inpatient Expenses	\$8,106,700	\$8,048,400
<u>Outpatient Expenses</u>		
Operating	\$931,700	\$958,800
Capital	<u>1,166,500</u>	<u>1,152,000</u>
Total Outpatient Expenses	\$2,098,200	\$2,110,800
Total Expenses	\$10,204,900	\$10,159,200
Excess/(Loss)	<u>(\$161,800)</u>	<u>(\$83,900)</u>
<u>Utilization</u>	<u>Year One</u>	<u>Year Three</u>
Total Inpatient Discharges	501	501
Total Outpatient Visits	136	142

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

	<u>Inpatient</u>	<u>Outpatient</u>
Medicare	55.9%	56.0%
Commercial	23.9%	24.0%
Medicaid	5.8%	5.9%
Private Pay	14.4%	14.1%

Utilization and expense projections are based on the experience of Northwell hospitals providing cardiac catheterization services and the expected market share of cardiac catheterization services within the PBMC service area.

#### Capability and Feasibility

The project cost of \$42,791,898 (inclusive of shell space) will be met through \$5,869,060 in accumulated funds and the remaining \$36,922,838 through DASNY Tax-Exempt Bonds (30-year term @ 6.5%). BFA Attachment A is a financial summary for PBMC, which indicates the availability of sufficient funds.

The submitted budget indicates an incremental loss of revenues over expenses of \$161,800 and \$83,900 during the first and third years of operation, respectively. Northwell Health Care, Inc. has submitted a letter from the CFO of Northwell Health, Inc. stating that they will absorb the operational losses and support the PBMC Cardiac Cath Program. Revenues reflect current reimbursement methodologies for Cardiac Cath services. The budget appears reasonable.

As shown on BFA Attachment A, PBMC has maintained positive working capital and net asset positions, and had operating income of \$3,392,953 as of December 31, 2014. PBMC has shown a positive operating income of \$1,833,790 as of December 31, 2015.

As shown on BFA Attachment B, PBMC has maintained positive working capital and net asset positions, and shows \$815,000 excess of revenue over expenses after non-operating gains as of June 30, 2016.

Based on the preceding and subject to the noted contingency, the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

#### Recommendation

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

## Attachments

BFA Attachment A	Certified Financials, Peconic Bay Medical Center, 2014 and as of December 31, 2015
BFA Attachment B	Internal Financials, Peconic Bay Medical Center as of June 30, 2016
BFA Attachment C	Northwell Health, Inc. Organizational Chart
BHFP Attachment	Map



Project # 161168-C
Southampton Hospital

Program: Hospital
Purpose: Construction

County: Suffolk
Acknowledged: April 4, 2016

Executive Summary

Description

Southampton Hospital (SH) is a 125-bed, voluntary not-for-profit, Article 28 acute care hospital located at 240 Meeting House Lane, Southampton (Suffolk County), New York. The applicant requests approval to certify Adult Diagnostic, Electrophysiology (EP) and Percutaneous Coronary Intervention (PCI) Cardiac Catheterization services, and construct a cardiac catheterization laboratory. The availability of adult PCI and EP services onsite at SH is expected to improve access to cardiac care for residents of the semi-rural east end of Long Island. The proposed services would be operated under the oversight of Stony Brook University Hospital (SBUH) in accordance with the terms of an executed clinical service agreement. SH is in the final stages of completing an affiliation with SBUH in which the Article 28 license of SH is to be transferred to SBUH. The Public Health and Health Planning Council contingently approved CON 152083 to certify SH as a division of SBUH on December 10, 2015, and finalization is pending satisfaction of outstanding contingencies.

Approval of this application would bring essential cardiac services into the community for a patient population already served through the SBUH-SH system. SH, SBUH and their affiliates propose to deliver the requested cardiac services within the context of broad-based programs to promote cardiovascular health. This includes active participation in the Delivery System Reform Incentive Payment (DSRIP) Program, prevention and screening programs that target cardiac conditions and risk factors, and concerted efforts

to build primary care capacity in the targeted service area.

OPCHSM Recommendation
Disapproval on the basis of public need pursuant to Section 709.14 of Title 10 of NYCRR

Need Summary
Given discharge data and trends, one newly operational PCI program in the planning area can be expected to meet the minimum target of 200 procedures within two years of start-up as required by Section 709.14 without jeopardizing the required volume of 300 procedures at programs within one hour travel time. However, given the regulatory parameters, the planning area volume of procedures would not similarly support the addition of a second new PCI program. Therefore, with the recommendation of approval for the competitively reviewed Peconic Bay Medical Center, disapproval of this project is recommended on the basis of public need.

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 \$775,333 is proposed to be met with accumulated funds. The incremental Budget is as follows:

Table with 2 columns: Category (Revenues, Expenses, Gain(Loss)) and Amount (\$6,752,072, 4,240,883, \$2,511,189)

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Disapproval on the basis of public need pursuant to Section 709.14 of Title 10 of NYCRR**

Council Action Date

**December 8, 2016**

# Need Analysis

## Project Description

Peconic Bay Medical Center (PBMC), a 140 bed hospital located at 1300 Roanoke Ave., Riverhead, Suffolk County and Southampton Hospital (SH), a 125 bed hospital located at 240 Meeting House Lane, Southampton, Suffolk County both seek to add PCI-capable cardiac catheterization and electrophysiology (EP) laboratory services. Although there is need for PCI services on eastern Long Island, the geography, demography, and trend of PCI procedures of the region is such that only one of these two proposals can be approved, thus, a competitive review was performed.

Peconic Bay Medical Center's proposal is to construct a new two-laboratory adult PCI-cardiac catheterization/electrophysiology suite with two bridges to the facility and construct a new (relocated and enlarged) helipad. PBMC proposed an affiliation with Southside Hospital, part of the new Northwell Health Care Inc. system, as their cardiac surgery partner.

Southampton Hospital's project would add one onsite adult PCI-capable cardiac catheterization/electrophysiology laboratory. Southampton proposed an affiliation with University Hospital (Stony Brook) as their cardiac surgery partner.

## Need Summary

Section 709.14 of Title 10 of NYCRR delineates the review criteria for public need of PCI Capable Cardiac Catheterization Laboratory Centers. Per the regulation, the planning area for determining the public need at hospitals with no cardiac surgery on-site is the area within a one hour average surface travel time.

<b>Suffolk County Hospitals PCI Discharges - PCI Statistics by Hospital of Service</b>					
<b>Facility</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014<sup>1</sup></b>	<b>2015<sup>2</sup></b>
Brookhaven Memorial Hospital Medical Center	0	0	19	303	358
Good Samaritan Hospital West Islip	700	629	665	951	1094
Huntington Hospital	257	306	517	538	555
Southside Hospital	572	615	766	683	767
St. Catherine of Siena Hospital	268	256	321	309	322
University Hospital (Stony Brook)	1,543	1,407	1,474	1,327	1515
<b>Total</b>	<b>3,340</b>	<b>3,213</b>	<b>3,762</b>	<b>4,109</b>	<b>4,611</b>
<b>Year-over-Year Increases</b>		<b>(127)</b>	<b>549</b>	<b>347</b>	<b>502</b>

Source: PCIRS

<sup>1</sup> Validation is essentially complete. These numbers are unlikely to change. Analysis is ongoing and expect report to be published within a few months.

<sup>2</sup> Substantial validation still to take place. There are likely to be some changes to the dataset.

<b>PCI Centers distance from Peconic Bay Medical Center</b>		
	<b>Distance (miles)</b>	<b>Travel Time (minutes)</b>
Brookhaven Memorial Hospital Medical Center	20.9	28
Good Samaritan Hospital West Islip	42.3	46
Huntington Hospital	44.6	55
Southside Hospital	36.9	43
St. Catherine of Siena Hospital	36.5	46
University Hospital (Stony Brook)	31.5	41

Source: Mapquest.com

<b>PCI Centers distance from Southampton Hospital</b>		
	<b>Distance (miles)</b>	<b>Travel Time (minutes)</b>
Brookhaven Memorial Hospital Medical Center	33.9	39
Good Samaritan Hospital West Islip	53.1	59
Huntington Hospital	59.9	74
Southside Hospital	49.1	56
St. Catherine of Siena Hospital	49.3	61
University Hospital (Stony Brook)	46.4	57

Source: Mapquest.com

Suffolk County's elderly population is expected to increase by 34.1 percent from 2015 to 2030, with populations in the North and South forks roughly comparable. Although statewide PCI discharges are decreasing overall, Suffolk County has seen a 23 percent increase in PCI procedures from 2011 to 2014.

As shown in the preceding tables, currently all of the facilities within a one hour travel time are performing greater than 300 annual PCI procedures. The two facilities with the lowest utilization, Brookhaven Memorial Hospital Medical Center and St. Catherine of Siena Hospital, continue to trend upward, along with all of Suffolk County. Additionally, Year-over-Year increases for the current providers averaged 318 additional cases per year from 2012 through 2015. However, for the general service area for the two proposals, the number of PCI procedures for the residents of the North Fork, the South Fork, and Central Eastern Long Island, has been dropping over the last three years, from 365 in 2013 to 312 in 2015.

Taken in their totality, these factors, including lengthy travel times, support the need for an additional PCI Capable Cardiac Catheterization Center in Suffolk County. However, the volume of PCI patients from the eastern Long Island area, while over 300 currently, is not enough to support two new programs or ensure that facilities within an hour travel time from the applicant locations can maintain the 300 procedure annual minimum prescribed in Section 709.14 of Title 10 of NYCRR with the addition of more than one new PCI facility.

#### Competitive Review

Given the need for only one new facility in the region, the two projects were reviewed competitively. On October 17, 2016, the Department presented both applications to an ad hoc group of the Cardiac Advisory Committee (CAC), an impartial advisory body comprised of renowned cardiac surgeons, cardiologists and related specialists, for clinical input. Committee members were asked to identify the strengths and weaknesses of the two proposals to assist the Department in determining if either project should be approved and, in the event both were deemed viable, which proposal was preferred. Reviewers noted that both proposals are attached to surgery-center affiliates with well-established programs and good outcomes.

Ultimately, the CAC cited three primary factors supporting an approval of PBMC's application over Southampton Hospital's:

- PBMC is more centrally located to serve residents of both the North and South forks of Long Island.
- PBMC is proposing to build two labs which would enable it to manage two simultaneous ST elevation MI (STEMI) cases or an emergent STEMI that presented during a scheduled case.
- PBMC is proposing to relocate and enlarge their helipad which would further improve timely access for emergency patients.

#### Conclusion

Given discharge data and trends, one newly operational PCI program in the planning area can be expected to meet the minimum target of 200 procedures within two years of start-up as required by Section 709.14 without jeopardizing the required volume of 300 procedures at programs within one hour travel time. However, given the regulatory parameters, the planning area volume of procedures would not similarly support the addition of a second new PCI program.

The Department of Health relies heavily on the expertise provided by the Cardiac Advisory Committee and agrees with its recommendation. The Department is recommending approval of the Peconic Bay Medical Center application based on PBMC's favorable location relative to the target population, the proposal for two labs allowing for the simultaneous treatment of emergency and elective cases and, the existence of a helipad for more expeditious transport of emergency cases.

With a recommendation of approval for Peconic Bay Medical Center, the need in the region is considered met, precipitating a recommendation of disapproval on the basis of public need for the Southampton Hospital application.

Recommendation

**From a need perspective, Disapproval on the basis of public need pursuant to Section 709.14 of Title 10 of NYCRR is recommended.**

## Program Analysis

### Project Description

Southampton Hospital (SH), a 125-bed, voluntary not-for-profit, Article 28 acute care hospital located at 240 Meeting House Lane in Southampton (Suffolk County), requests approval to certify Cardiac Catheterization-Adult Diagnostic, Electrophysiology (EP) and Percutaneous Cardiac Intervention (PCI) services, and construct an adult PCI capable cardiac catheterization and electrophysiology lab. The proposed program will operate with clinical oversight from Stony Brook University Hospital (SBUH) in accordance with the terms of an executed clinical service agreement. Stony Brook University Hospital is a 603-bed, academic tertiary care facility and Level I trauma center located at Health Sciences Center SUNY in Stony Brook (Suffolk County) that is a full-service cardiac surgery provider.

Southampton Hospital is a participant in the SBUH-led Delivery System Reform Incentive Payment (DSRIP) project to address cardiovascular disease in the region. Suffolk County's congestive heart failure (CHF) mortality rate and hospitalization rates exceed NYS rates in every disease category—cardiovascular disease, diseases of the heart, coronary disease, heart attack, congestive heart failure, strokes and hypertension. The proposal aims to enhance the quality of and access to care for cardiac patients on the east end of Long Island.

Southampton will renovate its existing first floor Class C Hybrid operating room and upgrade equipment with new advanced software. Staffing is expected to increase by 15.7 FTEs in the first year after completion and remain at that level through the third year of operation.

The project will result in SH's operating certificate changing to add the following certified services:

- Cardiac Catheterization - Adult Diagnostic
- Cardiac Catheterization - Electrophysiology (EP)
- Cardiac Catheterization - Percutaneous Coronary Intervention (PCI)

The Applicant has submitted a written plan that demonstrates their ability to comply with all of the standards for PCI Capable Cardiac Catheterization Laboratories and Cardiac Electrophysiology (EP) and they have assured the Department that their program will meet all of the requirements of 405.29(e)(1-3) and 405.29(e)(5).

### 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.

## Conclusion

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.

## Recommendation

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

# Financial Analysis

## Total Project Cost and Financing

Total project cost for renovations and the acquisition of moveable equipment is estimated at \$775,333, broken down as follows:

Renovation & Demolition	\$5,000
Design Contingency	500
Construction Contingency	500
Movable Equipment	763,103
CON Application Fee	2,000
Additional Processing Fee	4,230
Total Project Cost	<u>\$775,333</u>

Project costs are based on a two-month construction period. The applicant proposes to finance the total project cost through accumulated funds of Southampton Hospital.

## Incremental 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>
<u>Inpatient Revenues</u>		
Medicare	\$1,759,886	\$1,759,886
Medicaid	157,856	157,856
Commercial	794,442	794,442
Private Pay	<u>5,812</u>	<u>5,812</u>
Total Inpatient Revenue	\$2,717,996	\$2,717,996
<u>Outpatient Revenues</u>		
Medicare	\$2,509,906	\$2,509,906
Medicaid	507,554	507,554
Commercial	<u>1,016,616</u>	<u>1,016,616</u>
Total Outpatient Revenue	\$4,034,076	\$4,034,076
Total Revenues	\$6,752,072	\$6,752,072
<u>Inpatient Expenses</u>		
Operating	\$1,102,831	\$1,101,965
Capital	<u>19,307</u>	<u>38,615</u>
Total Inpatient Expenses	\$1,122,138	\$1,140,580
<u>Outpatient Expenses</u>		
Operating	\$2,997,695	\$2,995,341
Capital	<u>52,481</u>	<u>104,962</u>
Total Outpatient Expenses	\$3,050,176	\$3,100,303
Total Expenses	\$4,172,314	\$4,240,883
Gain/(Loss)	<u>\$2,579,758</u>	<u>\$2,511,189</u>

<u>Utilization</u>	<u>Year One</u>	<u>Year Three</u>
Total Inpatient Discharges	160	160
Total Outpatient Visits	359	359

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

	<u>Inpatient</u>	<u>Outpatient</u>
Medicare	64.8%	62.2%
Commercial	29.2%	25.2%
Medicaid	5.8%	12.6%
Private Pay	0.2%	0.0%

Utilization, revenue and expense projections are based on the current cases seen at SBUH related to the service area and target market.

### **Capability and Feasibility**

The project cost, \$775,333 is proposed to be met through accumulated funds. BFA Attachment A is a financial summary for Southampton Hospital Association and Affiliates, which indicates the availability of sufficient funds.

The submitted incremental budget indicates an excess of revenues over expenses of \$2,579,758 and \$2,511,189 during the first and third years of operation, respectively. Revenues reflect current reimbursement methodologies for the services. The budget appears reasonable.

BFA Attachment A presents the 2014 and 2015 certified financial statements of the Southampton Hospital Association and Affiliates. The Hospital had a positive working capital position, net asset position and net operating revenues of \$126,653 and \$4,903,227 for 2015 and 2014, respectively.

BFA Attachment B presents the internal financial statements of the Southampton Hospital Association and Affiliates as of June 30, 2016. As shown, the Hospital had a positive working capital position, net asset position and shows \$743,021 excess of revenue over expenses after non-operating gains.

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

### Recommendation

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

## Attachments

BHFP Attachment	Map
BFA Attachment A	Financial Summary, Southampton Hospital 2014-2015
BFA Attachment B	Financial Summary, Southampton Hospital internal financial statements as of June 30, 2016



**Project # 162095-C**  
**Weill Cornell Imaging at New York Presbyterian**

**Program:** Diagnostic and Treatment Center      **County:** New York  
**Purpose:** Construction      **Acknowledged:** August 11, 2016

**Executive Summary**

**Description**

Weill Cornell Imaging at New York-Presbyterian, an existing Article 28 diagnostic and treatment center (D&TC) specializing in radiology and imaging services, requests approval to certify a new extension clinic to be located at 156 William Street, New York. The facility currently operates five clinic sites in Manhattan. The new extension clinic will provide magnetic resonance imaging, computed tomography scanner and diagnostic radiology outpatient services (including ultrasound, mammography and bone density scans).

Weill Cornell Imaging at New York-Presbyterian is a membership corporation whose members are NYP Services, Inc. and MRSI Management, Inc. (MRSI), both of which are New York not-for-profit corporations. The sole member of NYP Services, Inc. is New York-Presbyterian Foundation, Inc., a New York not-for-profit corporation. MRSI is related to Cornell University, a New York education corporation.

OPCHSM Recommendation  
Contingent Approval

**Need Summary**

The proposed center will provide the following services: Medical Services-Other Medical Services, CT Scanner and Magnetic Resonance Imaging (MRI). There will be two MRIs included in this project. Based on 709.12, MRI machines have a capacity for 3,200 scans per year. The number of projected visits are 23,395 including 4,717 MRI scans in Year One.

**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 \$34,201,125 will be met via Equity of \$27,759,787 and an equipment lease of \$6,441,338. The projected budget is as follows:

Revenues	\$16,015,500
Expenses	<u>12,245,348</u>
Gain	\$3,770,152

## 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 an executed sublease agreement that is acceptable to the Department of Health. [BFA]
3. Submission of an executed equipment lease that is acceptable to the Department of Health. [BFA]
4. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in BAER Drawing Submission Guidelines DSG-03, for review and approval. The SHC documents submitted shall address the open general construction review comments #252315 (MRI room egress clearances), #252347 (Life-safety clarifications), #252355 (ADA clearance items), and mechanical comment #252479 (required ventilation). [DAS]

**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. Construction must start on or before January 1, 2017 and construction must be completed by March 1, 2018, 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. [PMU]
3. The submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]

Council Action Date

**December 8, 2016**

## Need Analysis

### Analysis

The primary service area includes downtown Manhattan area, which includes the following zip codes: 10004, 10015, 10006, 10017, and 10038. The secondary service area would be the remainder of New York County. The population of New York County in 2010 was 1,585,873 with 214,153 individuals (13.5%) age 65 and over, who are heavy users of radiological imaging services. The Cornell Program on Applied Demographics (PAD) projects the 65 and over population group to grow to 264,334 by 2025 and represent 16.4% of the projected population of 1,615,772 in New York County.

The following table shows the number of projected visits for Years 1 and 3. These projections include 4,717 MRI scans in Year 1 and 5,418 scans in Year 3.

Type of Service	Year 1	Year 3
CT Scanner	2,754	3,127
MRI	4,717	5,418
Other Medical Services	15,924	19,403
Total	23,395	27,948

There are two freestanding D&TCs and four extension clinics in New York County that provide MRI and CT scanner services. Five of the six clinics are operated by the applicant. The other D&TC (New York University Dental Center) provides CT Scans, but no MRI services.

Over the past few years, WCINYP sites have experienced a steady increase in the demand for services. The various centers had a combined total volume of 118,288 in 2011 and 174,307 in 2015, an increase of 47.4 percent. The proposed hours of operation at the new site will be Monday through Friday, 8:00 am to 6:00 pm.

Relative to Regulation 709.12 Need Methodology for Acquiring Magnetic Resonance Imagers, the applicant has demonstrated the availability of appropriate equipment in the areas of computed tomography, ultrasound, angiography, conventional radiography and nuclear medicine: The applicant has also demonstrated the availability of neurologists, neurosurgeons, orthopedists, oncologists and radiologists who meet the definition of qualified specialists.

The applicant is committed to serving all patients in need of care regardless of their ability to pay or the source of payment.

### Conclusion

Approval of this project will increase access to imaging services in New York County.

### Recommendation

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

## Program Analysis

### Program Description

Weill Cornell Imaging at New York-Presbyterian (WCINYP), an existing Article 28 diagnostic and treatment center (D&TC) that specializes in radiology and imaging services, is seeking approval to certify a new extension clinic to provide radiology imaging services to be located on the cellar and sub cellar levels at 156 William Street in lower Manhattan (New York County). The proposed clinic will provide Magnetic Resonance Imaging (MRI) and Computed Tomography (CT) scanning, along with other diagnostic radiology outpatient services (including ultrasound, mammography and bone density scans).

Currently, WCINYP operates five radiology and imaging sites; four on the East Side of Manhattan and one on the West Side of Manhattan. Due to significant growth in the service area, WCINYP's five sites have experienced a steady increase in demand for radiological services (particularly for MRI and CT) which has resulted in increased demand for longer hours and additional weekend hours. The proposed site will permit WCINYP to provide radiology services to residents of the downtown Manhattan area.

Staffing is expected to consist of 30.5 FTEs in the first year after completion and to 38.2 FTEs by the third year of operation.

### Compliance with Applicable Codes, Rules and Regulations

The 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

### Lease Rental Agreement (Overlease)

The applicant has submitted the executed overlease agreement for the site in which the D&TC will be located, summarized below:

Date:	June 30, 2016
Premises:	6 <sup>th</sup> Floor, the Ground Floor Premises and the Lower Level Premises of the property at 156 William Street, New York New York 10038
Landlord:	156 William Street Owner LLC
Tenant:	Cornell University
Term:	21 years and 2 months (from April 1, 2016 "Commencement Date")
Rental:	Fixed annual amounts for each five-year period, specific to the given leased floor/level (i.e., amounts vary depending on the select floor/space rented), variable % increases at the end of each five-year period.
Provisions	The Lessee shall be responsible for utilities, insurance, repairs, and maintenance.

### Sublease Rental Agreement

The applicant has submitted a draft sublease agreement for the site they will occupy, summarized below:

Premises:	14,000 square feet located at 156 William Street, New York
Sublessor:	Cornell University
Sublessee:	Well Cornell Imaging at New York-Presbyterian
Term:	20 years
Rental:	Years 1-5: \$687,240 annually (\$49.09 per sq. ft.)
	Years 6-10: \$754,480 annually (\$53.89 per sq. ft.)
	Years 11-15: \$821,720 annually (\$58.69 per sq. ft.)
	Years 16-20: \$889,960 annually (\$63.57 per sq. ft.)
Provisions	The sublessee shall be responsible for insurance and repairs

The applicant has submitted real estate letters attesting to the reasonableness of the rent.

### Total Project Cost and Financing

Total project cost, which is for renovations and the acquisition of moveable equipment, is estimated at \$34,201,125 broken down as follows:

Renovation and Demolition	\$18,361,084
Site Development	500,000
Design Contingency	873,160
Construction Contingency	2,720,413
Fixed Equipment	250,000
Planning Consultant Fees	1,456,064
Architect/Engineering Fees	1,782,000
Construction Manager Fees	31,000
Other Fees (Consultant)	1,000,000
Moveable Equipment	7,038,338
CON Fee	2,000
Additional Processing Fee	187,066
Total Project Cost	\$34,201,125

Project costs are based on a construction start date of January 1, 2017, and a fourteen-month construction period.

The applicant's financing plan appears as follows:

Equity	\$27,759,787
Equipment Lease	6,441,338
Total	\$34,201,125

### Operating Budget

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

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$13,169,129	\$16,015,500
<u>Expenses</u>		
Operating	\$7,841,835	\$10,538,317
Capital	<u>1,707,031</u>	<u>1,707,031</u>
Total Expenses	\$9,548,866	\$12,245,348
Excess of Revenues over Expenses	<u>\$3,620,263</u>	<u>\$3,770,152</u>
Utilization (Scans)	23,395	27,948
Cost Per Scan	\$408.16	\$438.15

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	2.50%	2.50%
Medicaid Managed Care	5.60%	5.60%
Medicare Fee-For-Service	25.80%	25.80%
Medicare Managed Care	3.10%	3.10%
Commercial Fee-For-Service	4.30%	4.30%
Commercial Managed Care	55.20%	55.20%
Other	3.50%	3.50%

Expense and utilization assumptions are based on the historical experience of the facility.

#### Capability and Feasibility

Project costs of \$34,201,125 will be met with Equity of \$27,759,787 and an equipment lease of \$6,441,338. BFA Attachment A is the 2014 and 2015 certified financial statements of Weill Cornell Imaging at New York-Presbyterian, which indicates the availability of sufficient funds for the equity contribution.

The submitted budget indicates an excess of revenues over expenses of \$3,620,263 and \$3,770,152 during the first and third years, respectively. Revenues are based on current reimbursement methodologies. The submitted budget appears reasonable.

As shown on BFA Attachment A, the entity had an average positive working capital position from 2014 through 2015. Also, the entity achieved an average excess of revenues over expenses of \$30,478,500 from 2014 through 2015.

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.**

## Attachments

BFA Attachment A	2014 and 2015 certified financial statements of Weill Cornell Imaging at New York-Presbyterian
BHFP Attachment	Map



**Project # 162096-C**  
**Good Shepherd Hospice at Mercy Medical Center**

**Program: Hospice**  
**Purpose: Construction**

**County: Nassau**  
**Acknowledged: August 12, 2016**

**Executive Summary**

**Description**

Good Shepherd Hospice, a not-for-profit Article 40 Hospice Program with administrative offices located at 110 Bi-County Boulevard, Suite 114, Farmingdale, New York, requests approval to certify a 12-bed hospice inpatient unit within Mercy Medical Center, a 375-bed Article 28 acute care hospital located at 1000 North Village Avenue, Rockville Centre (Nassau County). The new unit will be housed in approximately 8,500 square feet of leased space within the hospital. There will be no conversion of Article 28 beds to accommodate the 12-bed Article 40 inpatient unit. Good Shepherd Hospice will enter into an Agreement for Goods and Services with Mercy Medical Center for the provision of laboratory, pharmacy, radiology, respiratory therapy, speech therapy, occupational therapy, physical therapy and audiology services.

Good Shepherd Hospice and Mercy Medical Center are members of Catholic Health Services of Long Island (CHSLI), a diverse health system that also consists of Catholic Home Care, Good Samaritan Hospital Medical Center, Good Samaritan Nursing Home, Maryhaven Center of Hope, Our Lady of Consolation Nursing & Rehabilitation Care Center, St. Catherine of Siena Medical Center, St. Catherine of Siena Nursing & Rehabilitation Care Center, St. Charles Hospital, St. Francis Hospital-The Heart Center and St. Joseph's Hospital.

**OPCHSM Recommendation**  
**Contingent Approval**

**Need Summary**

Opening a 12 bed hospice inpatient unit at Mercy Medical Center will allow for patients of Nassau County to receive care they otherwise could not get in a home-like setting. After approval of this CON there will be a remaining need of 22 Hospice beds.

**Program Summary**

Good Shepherd Hospice is currently in compliance with all applicable codes, rules, and regulations.

**Financial Summary**

Total project costs of \$5,161,307 will be met through equity of \$3,161,307 and a loan for \$2,000,000 at 4.31% interest rate for a ten-year term. Catholic Health Services of Long Island has provided a letter of interest for the loan. The budget is as follows:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$2,701,690	\$3,364,368
Expenses	<u>\$3,157,920</u>	<u>\$3,319,631</u>
Gain/(Loss)	(\$456,230)	\$44,737

## 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 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 thirty 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 submission. [PMU]
2. Submission of an executed building lease, acceptable to the Department of Health. [BFA]
3. Submission of an executed Goods and Services Agreement, acceptable to the Department of Health. [BFA]
4. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-02 (AER).

**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. Construction must start on or before February 1, 2017 and construction must be completed by March 1, 2018, 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. [PMU]

Council Action Date

**December 8, 2016**

## Need Analysis

### Background

Good Shepherd Hospice, an existing Article 40 hospice located at 110 Bi-County Boulevard, Suite 114 Farmingdale, 11735, is seeking approval to certify a 12-bed hospice inpatient unit within Mercy Medical Center, located at 1000 North Village Avenue, Rockville Centre (Nassau County). The Agency is currently certified to serve Nassau and Suffolk Counties and operates a 16-bed inpatient hospice facility at 200 Belle Terre Road, Port Jefferson (Suffolk County).

### Background

Good Shepherd Hospice is authorized to provide services in Nassau and Suffolk Counties and is currently certified to operate 16 total hospice inpatient beds and offers the following services:

Audiology	Nursing
Baseline Services - Hospice	Nutritional
Bereavement	Pastoral Care
Clinical Laboratory Service	Personal Care
Home Health Aide	Pharmaceutical Service
Homemaker	Physician Services
Housekeeper	Psychology
Inpatient Certified	Therapy - Occupational
Inpatient Services	Therapy - Physical
Medical Social Services	Therapy - Respiratory
Medical Supplies Equipment and Appliances	Therapy - Speech Language Pathology

### Analysis

Through the Agency, patients receive hospice services in a variety of settings, including home, skilled nursing facilities, assisted living facilities, hospitals, and at the 16-bed inpatient hospice center in Suffolk County. Good Shepherd Hospice's inpatient center provides state-of-the-art healthcare and features all of the amenities of home, including sleeping accommodations for families and a 24-hour visiting policy.

Locating the 12-bed inpatient hospice unit at Mercy Medical Center will provide needed inpatient hospice services in Nassau County. The inpatient unit will accommodate patients who cannot be managed in the home setting. Mercy Medical Center is located approximately 40 miles from the Agency's Port Jefferson location.

The 12-bed inpatient hospice unit will be located in approximately 8,440 square feet of leased space within Mercy Medical Center. There will be no conversion of Article 28 beds at Mercy Medical Center to accommodate the 12-bed, Article 40 inpatient unit.

The Hospice Bed Need Methodology for Nassau County shows a need for 46 hospice beds. Based on the most recently available hospice bed data for Nassau County, there are currently 12 hospice beds in operation, leaving a need for 34 additional beds. The allocation of resources in the county is shown in the following table:

County	Hospice Bed Need	# of Operating Hospice Beds	# of Beds Approved, Not Yet Operational	# of Beds through this project	Remaining Inpatient Bed Need
Nassau	46	12	0	12	22

## Conclusion

The 12-bed unit will allow residents to receive Hospice care that cannot be managed in a home setting. Upon approval of this application, there will be a remaining need for 22 hospice beds in Nassau County.

## Recommendation

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

# Program Analysis

## Proposal Description

The applicant proposes to construct and operate a second hospice inpatient unit, consisting of twelve hospice inpatient beds in a leased unit on the second floor of Mercy Medical Center Hospital, 1000 North Village Avenue, Rockville Centre (Nassau County). The space currently houses hospital offices, which Good Shepherd Hospice will convert to a 12-bed hospice inpatient unit. In addition to the proposed lease agreement, Good Shepherd Hospice will also contract with Mercy Medical Center Hospital to provide the proposed hospice inpatient unit with all meal preparation, meal delivery, and food services for the hospice patients and their families, including three full meals per day, nutritional supplements, and medically prescribed special diets, along with all maintenance, housekeeping, engineering, security, parking, linen, and laundry services. Good Shepherd Hospice will also contract with Mercy Medical Center Hospital to provide the following ancillary services: Laboratory, Pharmacy, Radiology, Speech-Language Pathology, Occupational Therapy, Physical Therapy, Respiratory Therapy, and Audiology.

## Program Description

The proposed leased space is located on the North and East corridors on the second floor of the Molloy Pavilion of Mercy Medical Center Hospital, currently used for general office space which will be relocated elsewhere in the hospital. The Molloy Pavilion's second floor also houses a 40-bed Medical Surgical Unit in the West and South corridors, and general hospital office space is located in the adjacent main building's second floor to the south. Three elevators and three stairwells in the Molloy Pavilion's northeast corner (serving the North and East corridors) allow for private access to and from the proposed hospice inpatient unit, thus avoiding travel through other hospital units, and avoiding having hospital patients, visitors, or staff travel through the hospice unit. This bank of elevators and stairs are accessed from the hospital's main outside entrance and lobby on the first floor.

Renovations by Good Shepherd Hospice on the proposed hospice unit will create twelve private single-bedded patient rooms, each with its own private lavatory with sink and toilet. A separate spa / salon on the unit will house both a shower and a bathtub area, in addition to another sink and toilet, for patient use, and another separate shower room will house a shower, sink and toilet available for family use. Each inpatient room will contain a sleeper sofa / recliner to provide for overnight stays for family members. The unit will also house common areas designated for patient and family use, including a nourishment station, a family kitchenette with sink, refrigerator, microwave, and storage, a dining room with a capacity for 20 people, a family lounge room, a children's room with television and games, a bereavement / quiet / spiritual room, and a conference / multipurpose room for family education and meetings. The main nursing station with hand sink, and the clinical care areas, will be located on the unit directly across from the elevators and stairwells, and another nursing sub-station with hand sink will be located on the far west end of the unit. The unit will also house a locked medication room, nurse manager's office, a doctor's office, staff lounge with kitchenette, and staff work areas, lockers, and bathrooms.

There will be 24-hour RN presence on site on the hospice inpatient unit at all times. Direct-care nursing staff and home health aide staff will be assigned to the inpatient unit with a minimum of one (1) RN per shift for 1 to 6 patient beds occupied, two (2) RNs per shift for 7 to 12 patient beds occupied, one (1) Home Health Aide per shift for 1 to 4 patient beds occupied, two (2) Home Health Aides per shift for 5 to 8 patient beds occupied, and three (3) Home Health Aides per shift for 9 to 12 patient beds occupied. Additional onsite staff also includes a Social Worker, Pastoral Care Provider, Nurse Practitioner, Physician, and RN Nurse Manager. Administrative oversight of the inpatient unit will be conducted by the

full time onsite RN Nurse Manager. An interdisciplinary care team will be assigned to the hospice inpatient unit and will conduct onsite reviews of care, and volunteers will also be assigned to the hospice inpatient unit.

**Conclusion**

Good Shepherd Hospice is currently in compliance with all applicable codes, rules, and regulations.

**Recommendation**

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

<b>Financial Analysis</b>
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**Lease Rental Agreement**

The applicant submitted a draft lease for the proposed site, summarized below:

Premises:	1000 North Village Avenue, Rockville Centre (Nassau County). Unit 2p comprised of approximately 8,500 sq. ft.
Landlord:	Mercy Medical Center
Lessee:	Good Shepherd Hospice
Term:	20 years
Rental:	\$202,130 annually (\$16,844.17/month or \$23.78 per sq. ft.) with 3% annual rate increase
Provisions:	Triple Net Lease

The lease will be a non-arm's length lease arrangement, as there is common membership with the landlord in CHSLI. The applicant indicates that the lease amount is based on an existing approved lease between Good Shepherd Hospice and St. Charles Hospital for a similar hospice inpatient center located on the St. Charles Hospital campus.

**Goods and Services Agreement**

The applicant has submitted a draft Goods and Services Agreement, summarized below:

Buyer:	Good Shepherd Hospice
Provider:	Mercy Medical Center
Services Provided:	Services: Clinical, Maintenance, Security and Parking. Goods and Services: Food and Linens and Laundry
Term:	3 years
Cost:	<ul style="list-style-type: none"> <li>• Clinical services fees will be in accordance with the then prevailing Medicare rates or the same services;</li> <li>• Food Service - a fixed rate of \$15 per patient per day;</li> <li>• Maintenance Services - \$25 per hour plus cost of materials;</li> <li>• Linen services - \$6 per patient day;</li> <li>• Housekeeping - \$75,000 per year;</li> <li>• Pharmacy services charged at Average Wholesale Price less 20% per prescription fill.</li> </ul>

The arrangement will be a non-arm's length lease arrangement (common membership with the provider). The applicant indicated that the cost amounts are based on an existing approved Goods and Services Agreement between Good Shepherd Hospice and St. Charles Hospital for a similar hospice inpatient center located on the St. Charles Hospital campus.

Total Project Cost and Financing

Total project costs, estimated at \$5,161,307, are broken down as follows:

Renovation & Demolition	\$3,489,167
Asbestos Abatement or Removal	\$85,000
Design Contingency	\$348,917
Construction Contingency	\$348,917
Architect/Engineering Fees	\$250,000
Construction Manager Fees	\$140,000
Other Fees	\$24,998
Movable Equipment	\$328,001
Telecommunications	\$75,000
Interim Interest Expense	\$53,875
CON Application Fee	\$2,000
CON Processing Fee	<u>\$15,432</u>
Total Project Cost	\$5,161,307

Project costs are based on a start date of February 1, 2017, with a 13-month construction period.

The applicant's financing plan appears as follows:

Cash	\$3,161,307
Loan (4.31% interest, 10-year term)	<u>\$2,000,000</u>
Total	\$5,161,307

Catholic Health Services of Long Island has provided a letter of interest for the loan at the stated terms.

Operating Budget

The applicant has submitted their first and third year operating budgets for the 12-bed unit, in 2016 dollars, summarized below:

	Year One		Year Three	
	Per Diem	Total	Per Diem	Total
<u>Revenues</u>				
Medicare	\$811.75	\$1,951,454	\$811.66	\$2,430,112
Medicaid	\$809.48	\$25,094	\$801.26	\$31,249
Private Pay/Other	\$919.06	<u>\$725,142</u>	\$919.56	<u>\$903,007</u>
Total Revenues		\$2,701,690		\$3,364,368
<u>Expenses</u>				
Operating	\$776.88	\$2,504,656	\$664.71	\$2,668,822
Capital	<u>\$202.63</u>	<u>\$653,264</u>	<u>\$162.09</u>	<u>\$650,809</u>
Total Expenses (Cost/Day)	\$979.51	\$3,157,920	\$826.80	\$3,319,631
Net Income/(Loss)		<u>(\$456,230)</u>		<u>\$44,737</u>
Utilization (patient days)		3,224		4,015

Utilization by payor source for both Year One and Year Three is as follows:

Medicaid	0.97%
Medicare	74.57%
Private Pay/Other	<u>24.46%</u>
Total	100.00%

The following is noted with respect the submitted budget:

- Revenue and expense assumptions are based upon Good Shepherd's Hospice historical experience operating inpatient beds.
- Utilization assumptions are based on the applicant's actual inpatient trends, prorated to the twelve-bed unit.

Based on the above, the budget is reasonable.

#### Capability and Feasibility

The total project cost of \$5,161,307 will be satisfied with \$3,161,307 equity and a loan from Catholic Health Services of Long Island for \$2,000,000 at the above stated terms.

The submitted budget indicates a net loss of \$456,230 and a net income of \$44,737 during the first and third years of operation, respectively. The losses will be covered through current operations. As of April 30, 2016, the facility had a net equity position of over \$5.7 million dollars, showing sufficient resources to cover the projected losses for the new inpatient unit (BFA Attachment A).

BFA Attachment A is the 2015 certified and the internal financial statements for Good Shepard Hospice as of August 31, 2016, which shows that the facility generated both positive working capital and net asset positions and generated a net loss of \$824,500 for the period. The reason for the loss is attributed to employee medical claims, due to the facility being self-insured in order to assure compliance with the Ethical and Religious Directives of the Catholic Church. In order to rectify this, Catholic Health Services is looking to modify how health benefit exposure is handled across the system to mediate the impact of these claims on the smaller entities such as Good Shepherd. BFA Attachment B is the 2014 - 2015 certified and the internal financial statements of Catholic Health Services of Long Island as of August 31, 2016, which show that the organization had an average positive working capital position and an average positive net asset position and generated an average net Income of \$70,534,666 for the period shown.

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 | 2015 certified and 1/1/2016-8/31/2016 internal financial statements of Good Shepherd Hospice                              |
| BFA Attachment B | 2014 - 2015 certified and the 1/1/2016-8/31/2016 internal financial statements of Catholic Health Services of Long Island |



**Project # 162134-C  
United Hospice of Rockland**

**Program:** Hospice  
**Purpose:** Construction

**County:** Rockland  
**Acknowledged:** August 25, 2016

**Executive Summary**

**Description**

United Hospice of Rockland (UHR) is a voluntary not-for-profit corporation that operates an Article 40 hospice program located at 11 Stokum Lane, New City, serving the residents of Orange and Rockland Counties. In 2012, UHR opened the Joe Raso Hospice Center (JRHC), a freestanding hospice residence and hospice inpatient facility located at 415 Buena Vista Road, New City. The JRHC houses ten physical beds consisting of two dedicated inpatient-only and eight residence beds, with two of the eight residence beds dually certified for both hospice inpatient care and hospice residence care. Per this application, UHR requests approval to convert the two dedicated inpatient-only beds to two residence beds, resulting in a final hospice residence bed count of ten. Two of the ten residence beds will continue to be dually certified for both inpatient and residence level care.

residence beds will help them address the demand more effectively. The facility is currently a ten bed facility with two mixed use beds, six residence beds, and two inpatient beds. After project completion the facility will have two mixed use beds and eight residence beds. Remaining need in the county will be six.

**Program Summary**

United Hospice of Rockland, Inc., is currently in compliance with all applicable codes, rules, and regulations.

**Financial Summary**

There are no project costs associated with this application. There will be no staffing changes. The change in the designation of the two beds from inpatient-only to residence will have no impact on UHR's cash flow. The projected budget is as follows:

**OPCHSM Recommendation  
Approval**

**Need Summary**

The applicant indicates there is a high demand for residence care beds in the area, and they currently maintain a patient waiting list. The conversion of inpatient beds to

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,969,635	\$2,053,567
Expenses	<u>2,006,520</u>	<u>2,061,230</u>
Gain/(Loss)	(\$36,885)	(\$7,663)

The losses will be covered through philanthropic funding from a charitable lead annuity trust and fundraising.

## 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

**December 8, 2016**

## Need Analysis

### Project Description

United Hospice of Rockland is a 10-bed facility located at 415 Buena Vista Road, New City, serving the residents of Rockland and Orange Counties. The facility is currently a two bed hospice inpatient unit, and an eight bed hospice residence unit, with two of the eight hospice residence beds dually certified for both hospice inpatient level of care and hospice residence level of care. The applicant is seeking approval to convert the two hospice inpatient-only beds into two hospice residence beds, for a total facility configuration of ten hospice residence beds. Two of the ten hospice residence beds will remain dually certified for both inpatient and residence levels of care, thereby no longer necessitating housing a separate inpatient-only hospice bed unit.

### Background/ Analysis

United Hospice of Rockland is currently certified to offer the following services:

Audiology	Nursing
Baseline Services - Hospice	Nutritional
Bereavement	Pastoral Care
Clinical Laboratory Service	Personal Care
Home Health Aide	Pharmaceutical Service
Homemaker	Physician Services
Housekeeper	Psychology
Inpatient Certified	Therapy - Occupational
Inpatient Services	Therapy - Physical
Medical Social Services	Therapy - Respiratory
Medical Supplies Equipment and Appliances	Therapy - Speech Language Pathology

United Hospice of Rockland is authorized to provide services in Rockland and Orange Counties. This is a bed conversion to a lower level of care. Currently there is a high demand for residence beds as opposed to inpatient beds in Rockland County.

The Hospice Bed Need Methodology for Rockland County shows a need for eight inpatient hospice beds. The allocation of resources in this county is shown below in the following table:

County	Hospice Bed Need	# of Operating Hospice Beds	# of Beds Approved, Not Yet Operational	# of Beds through this project	Remaining Inpatient Bed Need
Rockland	8	4	0	-2	6

### Conclusion

The conversion of two beds will allow the applicant to address the high demand for residence beds and operate more efficiently. Upon approval of this application, there will be a remaining need for six inpatient hospice beds in Rockland County.

### Recommendation

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

## Program Analysis

### Project Proposal

United Hospice of Rockland, Inc., a not-for-profit corporation, currently operates an Article 40 hospice located at 11 Stokum Lane, New City, serving the residents of Rockland and Orange Counties. The provider also currently operates a freestanding hospice residence and hospice inpatient facility located at 415 Buena Vista Road, New City, that houses a two bed hospice inpatient unit and an eight bed hospice residence unit, with two of the eight hospice residence beds dually certified for both hospice inpatient level of care and hospice residence level of care.

The current proposal seeks approval to convert the two hospice inpatient-only beds into two hospice residence beds, for a total facility configuration of ten hospice residence beds (with two of the ten hospice residence beds continuing to be dually certified for both inpatient level of care and residence level of care).

### Program Description

As previously approved and constructed, the one-story facility consists of four corridors constructed around an outdoor central courtyard, with access to this courtyard from each corridor. The main entrance corridor houses a reception area, administrative offices, clinical staff office, multipurpose meeting room, great room for dining and recreational use, kitchen and separate kosher kitchen, medication room, and storage. Two of the corridors house four bedrooms each of the current eight-bedroom residence unit, plus a meditation room for spiritual use, a full bathroom with spa bath and shower for patient/resident use, and a full bathroom with shower for family/guest use. The fourth corridor currently houses the two bedrooms of the inpatient-only unit, plus linen, laundry, storage, and various mechanical rooms, and will now house the two bedrooms converted to residence level of care.

As is currently operational, the kitchen, kosher kitchen, and great room's dining area are available to families for individual food storage, meal preparation, and family meals, and the great room, multipurpose room, meditation room, and outside courtyard are also available for family activities and gatherings. Each of the ten hospice residence rooms contains a private lavatory, and each room is equipped with a pull-out bed to allow family members to remain overnight in the patient's/resident's room.

Clinical staffing for the facility will remain the same, utilizing 24-hour RN coverage. The staffing schedule will continue to consist of a minimum of one RN, one LPN, and one Home Health Aide on all shifts 24 hours a day, seven days a week. The hospice Board of Directors and management staff will continue to have ultimate responsibility for the facility. An onsite RN Administrator and office manager is assigned to provide oversight of the facility, and a Medical Director is responsible for the clinical and medical care. The interdisciplinary care team consists of a Social Worker, Spiritual Care Coordinator, Medical Director, and as needed, Physical, Occupational, Speech, and/or Respiratory Therapists. The facility is also staffed with a housekeeper, a facilities manager, a chef, and various volunteers.

### Conclusion

United Hospice of Rockland, Inc., is currently in compliance with all applicable codes, rules, and regulations.

### Recommendation

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

## Financial Analysis

### Operating Budget

The applicant has submitted operating budgets, in 2016 dollars, for the first and third years, as summarized below:

<u>Revenues</u>	<u>Year One</u>	<u>Year Three</u>
<u>General Residence Care</u>		
Medicare	\$342,868	\$347,600
Medicaid	50,133	50,402
Commercial	<u>40,816</u>	<u>45,430</u>
Total General Residence Care	\$433,817	\$443,432
 <u>Routine Home Care</u>		
Medicare	\$587,951	\$611,155
Medicaid	558,339	583,805
Commercial/Other	<u>389,528</u>	<u>415,175</u>
Total Routine Home Care	\$1,535,818	\$1,610,135
 Total Revenue	 \$1,969,635	 \$2,053,567
 <u>Expenses</u>		
Residence	\$326,080	\$337,900
Home Care	<u>1,680,440</u>	<u>1,723,330</u>
Total Expenses	\$2,006,520	\$2,061,230
 Net Income (Loss)	 <u>(\$36,885)</u>	 <u>(\$7,663)</u>
 <u>Projected Hospice Utilization</u>		
Residence Care Days	511	511
Home Care Visits	<u>2,923</u>	<u>2,923</u>
Total	3,434	3,434

Projected utilization by payor source for years one and three is as follows:

	<u>Residence Care Days</u>	<u>Home Care Visits</u>
Medicare	78.28%	89.39%
Medicaid	11.35%	5.51%
Commercial	<u>10.37%</u>	<u>5.10%</u>
Total	100.00%	100.00%

The following is noted with respect to the submitted budget:

- Year One rate calculations are based upon 2016 published Medicare and Medicaid rates, along with contracted rates with third party and private payors.
- For Year Three, UHR estimated a two percent rate increase per year for Medicare and Medicaid.
- The losses will be covered through philanthropic funding from a charitable lead annuity trust and fundraising.

### Capability and Feasibility

There are no project costs associated with this application and no staffing changes will be implemented.

The submitted budget shows a net operating loss of \$36,885 and \$7,663 for the first and third years of operation, respectively. The losses will be covered through philanthropic funding from a charitable lead annuity trust and fundraising. UHR has reported an additional \$1,542,952 and \$772,012 in fundraising and other revenues for 2015 and as of June 30, 2016, respectively. For 2016, UHR budgeted the use of nearly \$200,000 in assets to meet their budget requirements. Through June 30, 2016, they have not needed to use those assets due to their fundraising efforts. UHR anticipates that this trend will continue.

In 2001, donors established a trust with an investment company naming UHR as a beneficiary of the charitable lead annuity trust mentioned above. Under the terms of the split-interest trust agreement, UHR was to receive \$25,833 annually until the remaining donor's death. Based on the donors' life expectancies and a 4.8% discount rate, the present value of future benefits expected to be received by UHR was estimated to be \$278,790, which was recorded in December 2001 as a temporarily restricted contribution and as contribution receivable-charitable lead trust. The trust was revalued in December 2014, based on the life expectancy of the surviving donor; the present value of future benefits expected to be received was estimated to be \$134,020. UHR also records amortization of the discount on the estimated present value of future distributions.

BFA Attachments A is a summary of the 2015 certified financial statements and internal financial statements as of June 30, 2016 of United Hospice of Rockland, Inc. As shown, UHR experienced a positive working capital position, a net asset position and a net operating loss of \$17,815 in 2015, and a net operating income of \$423,017 as of June 30, 2016.

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

### Recommendation

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

## Attachments

BFA Attachment A United Hospice of Rockland, Inc. - 2015 Certified Financials, Internal Financials as of June 30, 2016



**Project # 161464-E  
Massena Memorial Hospital**

**Program:** Hospital  
**Purpose:** Establishment

**County:** St. Lawrence  
**Acknowledged:** June 29, 2016

**Executive Summary**

**Description**

Massena Memorial Hospital, Inc. (MMH), a to-be-formed, not-for-profit (NFP) corporation, requests approval to be established as the new operator of Massena Memorial Hospital (the Hospital), a 50-bed, public municipal, acute care hospital located at 1 Hospital Drive, Massena (St. Lawrence County). The Hospital is currently owned and operated by the Town of Massena, and is accounted for as an enterprise fund distinct from the general fund of the Town. The Hospital also operates four extension clinics located in the towns of Brasher Falls, Massena, and Norfolk. The facility has Sole Community Hospital designation and is a Safety-Net Hospital under DSRIP program requirements.

A draft Asset Transfer Agreement (ATA) detailing the terms of conversion from a public municipality to NFP governance structure has been submitted, which provides for the transfer of all of the Hospital's assets, including the real property, and the assignment and assumption of all liabilities and obligations relating to the Hospital prior to closing. The ATA provides that consideration for the transfer of assets and assumption of liabilities shall be determined and agreed upon by Transferor and Transferee prior to closing based upon a fair market valuation of the assets and liabilities at that time. The transfer will not result in any change to beds or services, or result in any reduction of workforce/medical staff. There will be no change in the daily operations of the Hospital.

The applicant indicated that the purpose of this conversion is to strengthen health care delivery in Massena and the surrounding region. As a

municipal facility, the Hospital is limited and restricted from responding to changes in Federal, State and local environmental influences, which impacts their ability to maintain and grow hospital and medical care services. Conversion to a NFP will allow for participation in joint ventures, partnerships and affiliations, as well as relieve taxpayers of the responsibility of debt incurred by the current facility. The transfer will allow the hospital to cease participation in the New York State Civil Service Retirement System, allowing MMH to renegotiate labor contracts with the intent of revising both the health insurance and pension provisions.

The Hospital has received Vital Access Provider Assurance Program (VAPAP) funding of \$3.2 million and has been awarded \$5.8 million under the Essential Health Care Provider Support Program (EHCPSP) grant for debt retirement. The EHCPSP funding is intended to further the Hospital's transformation plan, which encompasses this conversion from municipal to a NFP governance structure. It is anticipated that the conversion will provide the Hospital with a path to financial sustainability and potentially lead toward an affiliation with larger medical facilities and/or systems.

OPCHSM Recommendation  
Contingent Approval

Need Summary  
Massena Memorial Hospital is a designated safety-net provider and the sole community hospital serving Massena and nearby communities. Inpatient occupancy has declined

from 55.5% in 2011 to 33.8% in 2015 and the Hospital is struggling financially. This project would pave the way for future association agreements by converting the hospital into an independent not-for-profit company. This conversion will free the hospital to focus on improving its financial situation and expanding needed services to the community.

No changes to the certified beds or services offered by the Hospital are being proposed. Although this project does not directly address utilization issues at the Hospital, it is expected that this will be addressed as part of the Hospital's continued transformation.

#### 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 and no currently identified acquisition price associated with this project. Consideration for the transfer of assets and assumption of liabilities will be determined and agreed upon prior to closing based upon a fair market valuation. The applicant has indicated that there will be approximately \$460,000 in conversion expenses (CON development, valuation services and legal fees) that will be paid for out of operating funds. The budget is as follows:

	<u>Current Year</u>	<u>Year One</u>
Revenues	\$50,211,888	\$50,211,888
Expenses	<u>49,387,872</u>	<u>47,618,160</u>
Net Income	\$824,016	\$2,593,728

## 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 Asset Transfer Agreement, acceptable to the Department of Health. [BFA]
2. Submission of a photocopy of the applicant's executed Certificate of Incorporation, acceptable to the Department. [CSL]
3. Submission of a photocopy of the applicant's executed bylaws, acceptable to the Department. [CSL]
4. Submission of a photocopy of the applicant's executed Asset Purchase Agreement, acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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

**December 8, 2016**

# Need Analysis

## Project Description

Massena Memorial Hospital (the Hospital) is a 50-bed inpatient facility located at 1 Hospital Drive, Massena, 13662, in Saint Lawrence County. The Hospital is owned and operated by the Town of Massena (the Town), a public municipality. The Town is proposing to convert the Hospital into an independent non-profit. This project would establish Massena Memorial Hospital, Inc., a new not-for-profit corporation, as the sole owner and operator of Massena Memorial Hospital.

## Analysis

This proposal has no impact on the number of certified beds or services at the Hospital, which are provided below for background.

Bed Type	Bed Count
Coronary Care	2
Intensive Care	2
Maternity	3
Medical/Surgical	43
Total	50

Source: HFIS, 2016

- Ambulatory Surgery - Multi Specialty
- Clinic Part Time Services
- Clinical Laboratory Service
- Coronary Care
- Emergency Department
- Intensive Care
- Level I Perinatal Care
- Lithotripsy
- Maternity
- Medical Services - Other Medical Specialties
- Medical Services - Primary Care
- Medical Social Services
- Medical/Surgical
- Nuclear Medicine - Diagnostic
- Radiology - Diagnostic
- Renal Dialysis - Acute
- SAFE Center
- Therapy - Occupational O/P

Massena Memorial Hospital is a safety-net provider and has sole community hospital status. It is located within Saint Lawrence County, a large and sparsely-populated region of the State. The Hospital is 21 miles and 29 minutes, without traffic, from the next nearest inpatient facility. This relative isolation means that this Hospital plays a critical role in providing care to the region. This project will enable the Hospital to more efficiently focus on this key role. It will improve the financial position of the Hospital and allow it to seek affiliations and take initiatives to expand inpatient and other services.

## Conclusion

It is expected that converting Massena Memorial Hospital into an independent non-profit will benefit the Hospital significantly. Financial benefits related to losing the municipality status will enable the Hospital to stabilize and focus on expanding services and improving utilization, namely by recruiting physicians and focusing on affiliation with a larger hospital system. All this will help to ensure the continued availability of care from this safety net institution.

## Recommendation

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

## Program Analysis

### Project Proposal

Massena Memorial Hospital, Inc. (MMH), a to-be-formed not-for-profit corporation, seeks approval to convert sponsorship from a municipal corporate structure to a not-for-profit governance structure for Massena Memorial Hospital, an existing 50 bed hospital located at 1 Hospital Drive in Massena (St. Lawrence County). Conversion to not-for-profit status will allow participation in joint ventures, partnerships and affiliations, thus strengthening health care delivery in Massena and the surrounding Northern St. Lawrence County region.

The Hospital is currently owned and operated by the Town of Massena and is accounted for as an enterprise fund distinct from the general fund of the town. As a municipal facility, the Hospital is limited and restricted from responding to the impacts of changes in Federal, State and local environmental influences on maintaining and growing a hospital and medical care services. The change in governance structure provides MMH a path to financial permanence through expansion of needed community services, opportunities to increase profitability through joint venture opportunities, full participation in value based purchasing opportunities available in the Medicare and Medicaid programs, and potential participation/affiliation with larger medical facilities and or systems.

No change in authorized services or the number or type of beds are proposed in this project.

### Character and Competence

Character and Competence Reviews were conducted on the proposed Directors of Massena Memorial Hospital, Inc. as listed below:

Bedros Bakirtzian, M.D.	Edward T. Hamel
Susan J. Bellor	John J. Horan
Tina M. Buckley	David M. MacLennan
Real C. Coupal	Paul B. Morrow
Melanie A. Cunningham	Steven D. O'Shaughnessy
Patrick M. Facteau	Loretta B. Perez
Edward J. Fay	Scott A. Wilson
Joseph D. Gray	Robert G. Wolleben

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.

Mr. Wolleben disclosed that, two months after he assumed the Chief Operating Officer position of a three-hospital system, the system filed a Chapter 11 petition. Mr. Wolleben stated the system was servicing its debt according to requirements, however, it did not meet the days cash on hand requirements of the original bond covenants and the bond holders and insurers were unwilling to negotiate to avoid the Chapter 11 filing. The debt restructuring concluded with the sale of the system and Mr. Wolleben was retained as CEO for a hospital within the system.

Mr. Gray disclosed that, as the Town Supervisor, civil suits have been filed against the town-owned hospital and several tax certiori actions challenging property tax assessments have been filed against the town. Mr. Gray noted some of these suits/actions have been settled and a number of them remain pending.

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.**

<h2>Financial Analysis</h2>
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Asset Transfer Agreement

The applicant has submitted a draft ATA detailing the transfer of the Hospitals assets and liabilities from the Town of Massena to Massena Memorial Hospital, Inc.

Transferor:	Town of Massena, New York
Transferee:	Massena Memorial Hospital, Inc. (to-be-formed organization)
Asset/Liabilities Acquired:	All assets and liabilities are being transferred. Assets include: real property used in the operation of the Hospital (land, buildings, other improvements); inventory and supplies; all furniture, fixtures, and equipment; all books and records relating to the Hospital; all rights and interests under contracts, leases, labor agreements and other legal documents; the patient medical records subject to the terms of the Patient Medical Records Transfer Agreement; all cash, cash equivalents and securities held in accounts relating to the Hospital; accounts receivable and prepaid expenses; all rights and benefits under all contracts, agreements, leases or instruments between Transferor and any third party; and the name, goodwill and intellectual property. At Closing, transferee will assume and be responsible for all liabilities and obligations relating to the Hospital prior to Closing.
Acquisition Price:	Consideration for the transfer of assets and assumption of liabilities will be determined and agreed upon by the parties prior to closing based upon a fair market valuation.
Conversion Cost:	Approximately \$460,000 to be paid from operations.

The applicant has submitted an 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 the liability and responsibility. Currently, there are no outstanding Medicaid liabilities or assessments.

Operating Budget

The applicant has submitted an operating budget, in 2016/2017 dollars, during the first year subsequent to the change in operator, as summarized below:

	<u>Current Year</u>	<u>Year One</u>
<u>Inpatient Revenues</u>		
Commercial - Fee-For-Service	\$2,764,474	\$2,764,474
Medicaid - Fee-For-Service	2,527,731	2,527,731
Medicare - Fee-For-Service	8,027,077	8,027,077
Medicare - Managed Care	1,308,417	1,308,417
Private Pay/Other	<u>671,748</u>	<u>671,748</u>
Total Inpatient	\$15,299,447	\$15,299,447

	<u>Current Year</u>	<u>Year One</u>
<u>Outpatient Revenues</u>		
Commercial - Fee-For-Service	\$16,909,875	\$16,909,875
Medicaid - Fee-For-Service	6,352,850	6,352,850
Medicare - Fee-For-Service	5,817,726	5,817,726
Medicare - Managed Care	1,299,445	1,299,445
Private Pay/Other	<u>(3,882,014)</u>	<u>(3,882,014)</u>
Total Outpatient	\$26,497,882	\$26,497,882
Other Operating Revenue	8,691,943	8,691,943
Non-Operating Revenue	(277,384)	(277,384)
Total Revenue	\$50,211,888	\$50,211,888
<u>Expenses</u>		
Operating	46,519,791	45,005,791
Capital	<u>2,868,081</u>	<u>2,612,369</u>
Total	\$49,387,872	\$47,618,160
Net Income	<u>\$824,016</u>	<u>\$2,593,728</u>
Total Patient Days	2,352	2,352
Visits	121,142	121,142

Utilization by payor source for both the Current Year and Year One is as follows:

<u>Inpatient</u>	<u>%</u>	<u>Outpatient</u>	<u>%</u>
Commercial FFS	20.28%	Commercial FFS	32.55%
Medicaid FFS	23.81%	Medicaid FFS	28.88%
Medicare FFS	39.33%	Medicare FFS	25.49%
Medicare MC	7.61%	Medicare MC	6.03%
Private Pay/Other	8.97%	Private Pay/Other	7.05%

There are no projected changes in utilization or revenue due to this project, and no change in the daily operations of the Hospital. Expenses will decrease due to the retirement of a Municipal Bond that will be defeased prior to conversion through the \$5.8 million EHCPSP grant funding. Retirement of this debt will reduce the Hospital's annual interest payments estimated at \$255,000 per year. In addition, an ultimate decrease in employee benefits costs is anticipated. The applicant has indicated that they are committed to having a substantially similar benefit and salary structure post-conversion, as these costs are determined by existing labor contracts. However, MMH intends to renegotiate these labor contracts with the intent of revising both the health insurance and pension provisions, which they project will save the Hospital approximately \$1.5 million annually.

#### Capability and Feasibility

BFA Attachment A is the 2014-2015 audited financial summary of Massena Memorial Hospital - a component unit of the Town of Massena, New York. As shown, the facility had an average positive working capital position and an average positive net asset position. In addition, the facility achieved an average net income of \$249,635 for the period shown.

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 Financial Summary-Massena Memorial Hospital - a component unit of the  
Town of Massena, New York for audited periods 2014-2015



Project # 162011-B
Queens Surgical Center

Program: Diagnostic and Treatment Center
Purpose: Establishment and Construction
County: Queens
Acknowledged: July 8, 2016

Executive Summary

Description

Queens Surgical Center, LLC, an existing New York limited liability company, requests approval to establish and construct a multi-specialty, Article 28 Freestanding Ambulatory Surgery Center (FASC). The Center will be certified for Ambulatory Surgery – Multi-Specialty service, and will initially provide the following surgical specialties: General Surgery, OB/GYN, Gastroenterology, Urology, Pain Management and Orthopedics. The applicant will lease 7,010 gross square feet on the first floor of an existing building located at 36-36 Main Street, Flushing (Queens County). The Center will include two operating rooms and two procedure rooms, along with the requisite support areas.

Ownership of the operations is as follows:

Table with 2 columns: Proposed Operator, Members. Lists Queens Surgical Center, LLC and its members: OMP, LLC (72.00%), Brian Pun (100%), Fuqiang Zhang (6.25%), Xuebin Yin, M.D. (6.25%), Yadong Pan (12.50%), Huifang Xiao, M.D. (3.00%).

Xuebin Yin, M.D., who is board-certified in Obstetrics and Gynecology, will be the Center's Medical Director.

OPCHSM Recommendation

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

Need Summary

Queens Surgical Center, LLC, proposes to establish a multi-specialty ambulatory surgery center in Queens County, providing General Surgery, Obstetrics/Gynecology, Urology, Gastroenterology, Pain Management and Orthopedic services. The number of projected procedures is 5,676 in Year 1 with Medicaid at 5% and charity care at 2%.

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 \$5,107,710 will be met through members' equity of \$510,771, with the remaining \$4,596,939 to be financed over seven years at 4.5% interest. Investors Bank has provided a letter of interest at the stated terms. The projected budget is as follows:

Table with 3 columns: Category, Year One, Year Three. Rows: Revenues (\$6,595,093 vs \$6,996,734), Expenses (\$5,054,775 vs \$5,386,205), Gain/(Loss) (\$1,540,318 vs \$1,610,529).

## 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 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. [PMU]
2. 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]
3. 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]
4. 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]
5. Submission of an executed Project Management Agreement, acceptable to the Department. [HSP]
6. Submission of a Consulting and Administrative Services Agreement, acceptable to the Department. [HSP]
7. Submission of an executed working capital loan commitment, acceptable to the Department of Health. (BFA)
8. Submission of an executed project loan commitment, acceptable to the Department of Health. (BFA)
9. Submission of a photocopy of the applicant's Amended and Restated Operating Agreement of acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's amended Project Management Agreement, acceptable to the Department. [CSL]

11. Submission of a photocopy of the applicant's amended Consulting and Administrative Service Agreement, acceptable to the Department. [CSL]
12. Submission of a photocopy of the Articles of Organization of QMP, LLC acceptable to the Department. [CSL]
13. Submission of a photocopy of the amended and executed Operating Agreement of OMP, LLC acceptable to the Department. [CSL]
14. Submission of the applicant's fully executed lease agreement, acceptable to the Department. [CSL]
15. Submission of Design Development and State Hospital Code (SHC) Drawings, as described in BAER Drawing Submission Guidelines DSG-03, for review approval. [DAS]

**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 submission of Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, is required prior to the applicant's start of construction. [AER]
4. Compliance with all applicable sections of the NFPA 101 Life Safety Code (2000 Edition), and the State Hospital Code during the construction period is mandatory. This is to ensure that the health and safety of all building occupants are not compromised by the construction project. This may require the separation of residents, patients and other building occupants, essential resident/patient support services and the required means of egress from the actual construction site. The applicant shall develop an acceptable plan for maintaining the above objectives prior to the actual start of construction and maintain a copy of same on site for review by Department staff upon request. [AER]
5. Construction must start on or before January 1, 2017 and construction must be completed by October 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. [PMU]
6. Submission of a photocopy of proof of the applicant's filing of the Restated Articles of Organization, acceptable to the Department. [CSL]

Council Action Date  
**December 8, 2016**

## Need Analysis

### Background

Queens Surgical Center, LLC, an existing NY limited liability company, is seeking approval to establish and construct a freestanding ambulatory surgery center to provide multi-specialty services at 36-36 Main Street, Flushing, 11354, in Queens County.

### Analysis

The service area consists of Queens County. Queens County has a total of 13 freestanding ambulatory surgery centers: seven multi-specialty ASCs and six single-specialty ASCs. The table below shows the number of patient visits at ambulatory surgery centers in Queens County for 2014 and 2015.

ASC Type	Facility Name	Total Patient Visits	
		2014	2015
Multi	Choices Women's Medical Center Inc.	2,142	7,928
Single	Flushing Endoscopy Center, LLC	13,379	15,116
Multi	Gramercy Surgery Center, Inc. Queens (opened 4/6/15)	N/A	328
Multi	Hillside Diagnostic and Treatment Center, LLC	1,835	1,629
Single	Mason Eye Surgery Center (opened 3/25/15)	N/A	439
Multi	New York Surgery Center Queens, LLC	2,435	3,086
Multi	North Queens Surgical Center (opened 3/5/15)	N/A	527
Multi	Physicians Choice Surgicenter	622	644
Single	Queens Boulevard ASC, LLC	8,244	9,221
Single	Queens Endoscopy ASC, LLC	13,011	12,879
Multi	Queens Surgi-Center	7,424	6,220
Single	The Endoscopy Center of Queens (opened 3/21/16)	N/A	N/A
Single	The Mackool Eye Institute LLC	6,931	6,888
Totals		56,023	64,905

Source: SPARCS-2016

For all ambulatory surgery centers in Queens County, there was a 15.9% year-to-year increase in visits from 2014 to 2015. For the Multi-Specialty ASCs in the county, there was a 40.8% year-to-year increase.

The population of Queens County in 2010 was 2,230,722 with 862,706 individuals (38.7%) aged 45 and older. This is the primary population group utilizing ambulatory surgery services. Per Cornell Program on Applied Demographics projection data, this population group is estimated to grow to 967,591 by 2025 and represent 40.7% of the projected population of 2,378,066.

The number of projected procedures is 5,676 in Year 1 and 6,022 in Year 3. These projections are based on the current practices of participating surgeons. The table below shows the projected payor source utilization for Years 1 and 3.

Projections-162011	Year 1		Year 3	
	Volume	%	Volume	%
Medicaid – MC	284	5%	301	5%
Medicare – FFS	284	5%	301	5%
Medicare – MC	1,135	20%	1,204	20%
Commercial – FFS	1,135	20%	1,204	20%
Commercial – MC	2,384	42%	2,529	42%
Self- Pay	56	1%	62	1%
Other	284	5%	301	5%
Charity Care	114	2%	120	2%
Total	5,676	100%	6,022	100%

The Center initially plans to obtain contracts with the following Medicaid Managed care plans: Affinity, Fidelis, Healthfirst and Metro Plus. Upon approval of this project, the applicant plans to reach out to the following Federally Qualified Health Centers (FQHC's) in order to provide services to the underinsured: Joseph P Addabbo Family Health Center, William F Ryan Center and Urban Health Plan. Other outreach efforts include working with the Mt. Sinai Doctors Brooklyn Heights multi-specialty group practice to assist in providing retina services. The center's doctors are working with Manhattan Eye, Ear, & Throat Hospital and Northwell HealthPlex regarding providing primary ophthalmology and retina services once the center is operational.

**Conclusion**

Approval of this project will provide increased access to ambulatory surgery services for the communities of Queens County.

**Recommendation**

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

<b>Program Analysis</b>
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**Program Description**

Queens Surgical Center, LLC seeks approval to establish and construct a multi- specialty ambulatory surgery center to be located at 36-36 Main Street, Flushing (Queens County) which will provide general surgery, obstetrics/gynecology, urology, gastroenterology, pain management and orthopedic surgical services.

This project will consolidate a number of participating physicians' separate private practices into a single, regulated Article 28 location with the aim of enhancing efficiency, access, and quality of care. Additionally, the consolidation will allow the operator to provide screening and other outreach programs to the community that are not currently feasible through member physicians' private practices.

<b>Proposed Operator</b>	Queens Surgical Center, LLC
<b>Site Address</b>	36-36 Main Street Flushing New York 11354 (Queens County)
<b>Surgical Specialties</b>	Multi-Specialty: General Surgery, Obstetrics/Gynecology, Urology, Gastroenterology, Pain Management and Orthopedics
<b>Operating Rooms</b>	2 (Class C)
<b>Procedure Rooms</b>	2
<b>Hours of Operation</b>	Monday through Friday from 6:00 am to 6:00 pm
<b>Staffing (1<sup>st</sup> / 3<sup>rd</sup> Year)</b>	16.50 FTEs / 17.25 FTEs
<b>Medical Director</b>	Xuebin Yin, M.D.
<b>Emergency, In-Patient &amp; Backup Support Services Agreement and Distance</b>	Will be provided by NewYork-Presbyterian/Queens 2.3 miles / 8 minutes
<b>On-call service</b>	24/7 on-call service to connect patients to the facility's on-call physician during hours when the facility is closed.

### Character and Competence

The members of Queens Surgical Center, LLC are:

<u>Name</u>	<u>Membership</u>
QMP, LLC	72.00%
Brian Pun (100%)	
Huifang Xiao, M.D.	3.00%
Xuebin Yin, M.D.	6.25%
Fuqiang Zhang	6.25%
Yadong Pan	12.50%

The proposed Center's ownership is comprised of four individual members and QMP, LLC. Two of the individual members, Drs. Huifang Xiao and Xuebin Yin, are practicing physicians who are board-certified in obstetrics and gynecology and plan to perform procedures at the Center. The remaining individual members are Mr. Fuqiang Zhang, a real estate attorney in private practice, and Mr. Yadong Pan, a licensed mortgage originator employed as a Senior Loan Officer at a full service mortgage banking entity. QMP, LLC is wholly owned by Brian Pun, a real estate broker who owns and operates a title abstract company.

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

A list of physicians in close proximity to the proposed facility who are accepting new patients will be maintained and made available to any patient who does not have a primary care physician. The Applicant is committed to treating all patients on the basis of need, without discrimination, and will offer charity, reduced compensation, or uncompensated care.

The Center intends on utilizing an electronic medical record and integrating into a Regional Health Information Organization (RHIO) and/or Health Information Exchange (HIE). Additionally, it plans to seek AAAHC accreditation within two (2) years of becoming operational. The role it may play within the structure of an Accountable Care Organization or Medical Home is uncertain, however, the Center plans on investigating joining a local Performing Provider System (PPS), such as the New York Hospital Medical Center of Queens PPS.

### Conclusion

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

### Recommendation

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

## Financial Analysis

### Lease Rental Agreement

The applicant has submitted an executed Lease Rental Agreement for the proposed site, the terms of which are summarized below:

Date:	September 1, 2015
Premises:	7,010 sq. ft. on the first floor at 36-36 Main Street - Unit #1S, Flushing, NY 11354
Owner/Landlord:	3636 Main Realty, LLC
Lessee/Tenant:	Queens Surgical Center, LLC
Term:	Ending August 31, 2025. Plus (2) 5-year renewal term with a 3% yearly increase
Payment:	\$665,950 (\$95 per sq. ft.) with 3% yearly increase
Provisions:	Taxes, insurance utilities and maintenance

The applicant has provided an affidavit stating the lease is a non-arm length agreement as Brain Pun is a partial owner of both the landlord and applicant. Letters from two NYS licensed realtors have been provided attesting to the rental rate being of fair market value.

### Project Management Agreement

The applicant has submitted an executed project management agreement (PMA), the terms of which are summarized below:

Date:	August 12, 2014
Facility:	Queens Surgical Center, LLC
Contractor:	Facility Development & Management Consulting, LLC
Services Provided:	Assist applicant in develop of an operational FASC. Including: center planning, location, financing, insurance participation agreements, design and construction, staffing, meeting regulatory requirements, and support in developing operational and financial systems.
Term:	Until licensed by New York State
Fee:	Development Fee \$150,000 (\$35,000 paid at signing, \$9,000/month for 10 months, \$15,000 paid when licensed by NYS and \$10,000 upon Medicare certification)

### Administrative Service Agreement

The applicant has submitted an executed administrative services agreement (ASA), the terms of which are summarized below:

Date:	May 23, 2016
Facility:	Queens Surgical Center, LLC
Contractor:	Facility Development & Management, LLC
Services Provided:	Assist the applicant's Governing Board in providing administrative services for all aspects of the Center. The services to include assistance with equipment, supplies, personnel, policies and procedures, quality assurance/utilization, negotiations, financial and ongoing regulatory requirements.
Term:	3 years – automatically renew for one (1) year
Fee:	1 <sup>st</sup> Year Fee \$370,000 2 <sup>nd</sup> Year Fee \$540,000 (4% increase each year after 2 <sup>nd</sup> year)

The services provider, Facility Development & Management, LLC, is owned by Edward Hetrick and Ellen Johnson who are unrelated to the applicant. Queens Surgical Center, LLC retains ultimate control in all of the final decisions associated with the services provided in the PMA and ASA agreements.

### Total Project Cost and Financing

Total project costs for renovations and the acquisition of moveable equipment is estimated at \$5,107,710, broken down as follows:

Renovation & Demolition	\$2,183,615
Design Contingency	218,362
Construction Contingency	218,362
Architect/Engineering Fees	124,600
Other Fees	198,841
Movable Equipment	1,885,279
Telecommunications	84,958
Financing Costs	68,954
Interim Interest Expense	94,812
CON Application Fee	2,000
CON Processing Fee	<u>27,928</u>
Total Project Cost	\$5,107,710

Project costs are based on a start date of January 1, 2017, with a nine-month construction period.

The applicant's financing plan appears as follows:

Cash Equity (members)	\$510,771
Bank Loan (4.5% interest, 7-year term)	<u>4,596,939</u>
Total	\$5,107,710

Investors Bank has provided a letter of interest.

### Operating Budget

The applicant has submitted the first and third year projected operating budgets, in 2016 dollars, as summarized below:

	Year One		Year Three	
	Per Proc	Total	Per Proc	Total
<u>Revenues</u>				
Medicaid - MC	\$741.50	\$210,587	\$742.23	\$223,412
Medicare - FFS	\$1,066.92	303,004	\$1,067.96	321,457
Medicare - MC	\$907.68	1,030,214	\$907.77	1,092,954
Commercial - FFS	\$1,548.39	1,757,423	\$1,548.55	1,864,451
Commercial - MC	\$1,334.54	3,181,542	1,334.64	3,375,298
Self-Pay	\$318.95	18,180	\$321.45	19,287
Other	\$331.49	<u>94,143</u>	\$331.81	<u>99,875</u>
Total Revenues		\$6,595,093		\$6,996,734
<u>Expenses</u>				
Operating	\$644.09	\$3,655,850	\$664.97	\$4,004,428
Capital	<u>\$246.46</u>	<u>1,398,925</u>	<u>\$229.45</u>	<u>1,381,777</u>
Total Expenses	\$890.55	\$5,054,775	\$894.42	\$5,386,205
Net Income (Loss)		<u>\$1,540,318</u>		<u>\$1,610,529</u>
Utilization		5,676		6,022
Cost Per Procedure		\$890.55		\$894.42

Mr. Brain Pun, sole member of OMP, LLC (the applicant's 72% proposed owner), has provided a letter committing to contributing up to \$500,000 of the first year's received profits to local community-based organizations, e.g., Charles B. Wang Community Center, Inc. According to the applicant, this philanthropic effort will be evaluated on an annual basis, in addition to serving the Medicaid population and providing Charity Care.

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

- The Ambulatory Patient Group reimbursement rates reflect current and projected Federal and State government rates, with commercial and private payors reflecting adjustments based on experience in the region.
- Revenues are based upon experience of similar FASCs in New York State.
- Expense assumptions are based upon the experience of the proposed members and participating surgeons, as well as the experience of other FASCs in NYS.
- Utilization assumptions are supported by letters from ten physicians who are board-certified in their respective fields. Two of these physicians are proposed members of the Center and eight physicians are non-members. The proposed operator is committed to providing 2% to charity care patients and 5% to Medicaid patients. Utilization by payor is based on the existing payor mix experienced by the participating surgeons.
- Breakeven is approximately 77% for Year One and Three.

#### Capability and Feasibility

Total project costs of \$5,107,710 will be met through members' equity of \$510,771, with the remaining \$4,596,939 to be financed at 4.5% interest over seven years. Investors Bank has provided a letter of interest at the stated terms.

The working capital requirement is estimated at \$897,701 based on two months of third year expenses. Funding will be as follows: \$448,851 from the members' equity with the remaining \$448,850 satisfied through a three-year loan at 5.5% interest. Investors Bank has provided a letter of interest. Review of BFA Attachment B, Queens Surgical Center, LLC pro forma balance sheet, shows operations will start with \$959,622 equity. BFA Attachment A reveals sufficient resources to meet all the equity requirements.

Queens Surgical Center, LLC projects an operating surplus of \$1,540,318 and \$1,610,529 in the first and third years of operation, respectively. The budget appears reasonable

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.**

## Supplemental Information

#### Surrounding Hospital Responses

The Department reached out to the following hospitals asking for information on the impact of the proposed ambulatory surgery center (ASC) in their service areas. As you can see, none of the hospitals contacted submitted a response.

New York-Presbyterian/Queens --- **No Response**  
56-45 Main Street  
Flushing, New York 11355

Flushing Hospital Medical Center --- **No Response**  
4500 Parsons Boulevard  
Flushing, New York 11355

Long Island Jewish Forest Hills --- **No Response**  
102-01 66<sup>th</sup> Road  
Forest Hills, New York 11375

Mount Sinai Beth Israel --- **No Response**  
Fist Avenue at 16th Street  
New York, New York 10003

Long Island Jewish Medical Center --- **No Response**  
270-05 76<sup>th</sup> Avenue  
New Hyde Park, New York 11040

New York Community Hospital of Brooklyn --- **No Response**  
2525 Kings Highway  
Brooklyn, New York 11229

Supplemental Information from Applicant

The Department reached out to the applicant requesting information on the proposed facility's volume of surgical cases, the sources of those cases, and on how staff will be recruited and retained by the ASC.

**Need and Source of Cases:** The applicant believes the Center address an unmet need in that the majority of the procdures are currently being performed in private physician offices. Additionally, due to the aging population the applicant believes the need will only increase in future years.

**Staff Recruitment and Retention:** To the extent possible, staff will be drawn from among the current staff of the office practices of the applicant physicians. Recruitment for any additional staff will be done through accredited schools, advertisements and traditional recruiting venues.

**Office-Based Cases:** The applicant estimates that 3,710 (or 65.4%) of the projected Year One procedures are currently be performed in an office-based setting. The remaining procedures (approximately 1,966) are currently being done in hospitals.

DOH Comment

In the absence of comments from hospitals in the area of the ASC, the Department finds no basis for reversal or modification of the recommendation for approval of this application based on public need, financial feasibility and owner/operator character and competence.

<h2>Attachments</h2>
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BHFP Attachment	Map
BFA Attachment A	Queens Surgical Center, LLC members net worth summary
BFA Attachment B	Pro Forma Balance Sheet of Queens Surgical Center, LLC



**Project # 162112-E  
Hudson Valley Center for Digestive Health**

**Program:** Diagnostic and Treatment Center    **County:** Westchester  
**Purpose:** Establishment    **Acknowledged:** August 15, 2016

**Executive Summary**

**Description**

Hudson Valley Center for Digestive Health, LLC (HVCDH), an existing proprietary Article 28 diagnostic and treatment center (D&TC) located at 1978 Crompond Road, Cortland Manor (Westchester County), New York, 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 111502 and began operations effective July 11, 2012. The applicant notified the Department before their limited life expiration date requesting indefinite life status. The FASC continues to operate under the original lease submitted under CON 111502, which expires in June 2022. The lease has two additional five-year extensions that can be applied. The facility consists of two procedure rooms and preoperative and recovery areas. There will be no change in services provided.

**OPCHSM Recommendation  
Approval**

**Need Summary**

Submission of data by the applicant, required as a contingency for the approval of CON 111502, has been completed.

Based on CON 111502, Hudson Valley center for Digestive Health, LLC, Medicaid procedures were projected at 3.20 percent and charity care was projected at 1.99 percent for Year 3. Based on the Annual Reports submitted by the applicant, actual charity care in Year 3 (2015) was 1.40 percent and Medicaid was 10.71 percent. From January to June 2016, the center reported 1.60 percent charity care and 10.20 percent Medicaid utilization.

**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. Their budget is as follows:

Revenues	\$3,397,512
Expenses	<u>\$1,842,535</u>
Net Income	\$1,554,977

## Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

**Approval**

Council Action Date

**December 8, 2016**

## Need Analysis

### Project Description

Hudson Valley Center for Digestive Health, LLC, an existing Article 28 Diagnostic and Treatment Center certified as a single-specialty ambulatory surgery center providing gastroenterology services, is requesting permission to convert to permanent life. The center was granted a five-year limited life approval under CON 111502 with an operating certificate dated July 11, 2012 to July 10, 2017. The center is located at 1978 Crompond Road, Cortlandt Manor, 10567 in Westchester County.

Upon approval of this project, Hudson Valley Center for Digestive Health projects 3,365 procedures in Year 3 with Medicaid at 10.17 percent and charity care at 1.40 percent. There will be no changes in services.

### Analysis

The primary service area is Westchester County. Table 1 provides a comparison of projections from the initial CON application (CON 111502) and actual utilization for Year 1 (2013, first full year) and Year 3 (2015).

Projections		Actual	
Year 1	Year 3	Year 1	Year 3
3,828	4,220	3,240	3,275

Table 2 below provides Year 3 utilization, projections and actual, by payor, for CON 111502, and projections for the first and third years following approval.

Payor	CON 111502 Projected Year 3 (2015)	Actual Year 3 (2015)	CON 162112 Projections Years 1 & 3
Medicaid FFS	1.00%	0.27%	0.51%
Medicaid MC	2.20%	10.44%	9.66%
Medicare FFS	15.40%	21.07%	21.81%
Medicare MC	3.39%	7.57%	5.82%
Commercial FFS	17.61%	58.38%	59.91%
Commercial MC	58.41%	0%	0%
Charity Care	1.99%	1.40%	1.40%
Other	0%	.87%	.89%
Total	100%	100%	100%

The center has stated it currently has Medicaid Managed Care contracts with the following health plans: Affinity, Amida Care, Fidelis, Emblem Health, Hudson, MVP, Wellcare and United Health Community Plan. The center has become a New York State Cancer Services Provider as a Colonoscopy Screening Center and participates in a number of community outreach activities. The center has established referral agreements with the following FQHCs: Hudson River Health Care and Open Door Family Medical Center. The center has been providing ongoing outreach efforts in order to educate the public regarding cancer awareness.

Hudson Valley Center for Digestive Health, LLC, is committed to serving individuals needing care regardless of the source of payment or the ability to pay.

#### Conclusion

Approval of the proposed project will provide for the continued access to gastroenterology ambulatory surgery services for the communities of Westchester County.

#### Recommendation

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

## Program Analysis

#### Program Description

Hudson Valley Center for Digestive Health, an existing Article 28 Diagnostic and Treatment Center certified as a single-specialty ambulatory surgery center (specializing in gastroenterology procedures), located at 1978 Crompond Road in Cortlandt Manor (Westchester County), is requesting permission to convert to indefinite life following a five-year conditional, limited life approval (initially approved in CON #111502-B).

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 8.0 FTEs and Eric Teitel, M.D. and Herman Kleinbaum, M.D. will continue to serve as the Center's Medical Directors.

#### 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 complaints.

#### Conclusion

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

#### 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 (2015) and the first year subsequent to receiving indefinite life operating certification, as summarized below:

<u>Revenues</u>	<u>Current Year (2015)</u>		<u>Year One</u>	
	<u>Per Proc</u>	<u>Total</u>	<u>Per Proc</u>	<u>Total</u>
Medicaid MC	\$495.74	\$169,544	\$499.02	\$162,182
Medicaid FFS	\$553.44	\$4,981	\$536.53	\$9,121
Medicare MC	\$732.50	\$181,661	\$766.47	\$150,228
Medicare FFS	\$400.91	\$276,630	\$402.59	\$295,498
Commercial	\$1,003.72	\$1,919,116	\$1,001.22	\$2,018,461
Private Pay / All Other	\$584.11	\$16,355	\$583.50	\$17,505
Other Operating Revenue		<u>\$744,517</u>		<u>\$744,517</u>
<b>Total Revenues</b>		<b>\$3,312,804</b>		<b>\$3,397,512</b>
<u>Expenses</u>				
Operating	\$422.23	\$1,382,796	\$422.16	\$1,420,557
Capital	<u>\$128.85</u>	<u>\$421,978</u>	<u>\$125.40</u>	<u>\$421,978</u>
<b>Total Expenses (Cost/Proc)</b>	<b>\$551.08</b>	<b>\$1,804,774</b>	<b>547.56</b>	<b>\$1,842,535</b>
 Net Income or (Loss)		 <u><b>\$1,508,214</b></u>		 <u><b>\$1,554,977</b></u>
 Utilization (Procedures)		 3,275		 3,365

Revenue, expense and utilization assumptions are projected based upon a continuation of the Center's current operations. Other operating revenue of \$744,517 is comprised of the Center's anesthesia services.

### Capability and Feasibility

There are no project costs associated with this application. HVCDH projects an operating excess of \$1,454,502 in the first year following approval of this application. 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 is the 2014 and 2015 certified and the internal financial statements for Hudson Valley Center for Digestive Health, LLC as of July 31, 2016, which shows the facility maintained positive working capital, positive equity, and positive average net income of \$1,329,967 for the period.

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

### Recommendation

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

## Attachments

BFA Attachment A 2014 and 2015 certified and 1/1/2016-7/31/2016 internal financial statement for Hudson Valley Center for Digestive Health, LLC



**Project # 161431-E**  
**Hudson Valley Regional Community Health Centers, Inc.**

**Program:** Diagnostic and Treatment Center    **County:** Putnam  
**Purpose:** Establishment    **Acknowledged:** September 22, 2016

**Executive Summary**

**Description**

Hudson Valley Regional Community Health Centers, Inc., a to-be-established voluntary not-for-profit corporation, requests approval to be established as the new operator of United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc. (UCPA-PSDC), an Article 28 Diagnostic and Treatment Center (D&TC) located at 15 Mount Ebo Road South, Brewster (Putnam County). The applicant also requests approval to add an extension clinic at 301 Manchester Road in Poughkeepsie (Dutchess County). The applicant will provide primary and specialty medical care, mental health and dental services to the D&TCs current patients in Putnam and Dutchess Counties. In the future, they intend to expand to serve medically underserved populations in Westchester County. Their target population will be unserved and underserved patients with chronic health conditions, focusing on those with disabilities. They will partner with UCPA-PSDC, a not-for-profit health and rehabilitation service provider that has over 30 years of experience serving persons with developmental disabilities.

The applicant intends to file an application with HRSA's Bureau of Primary Care seeking FQHC designation for the two locations through a sub-grantee agreement with Hudson River Healthcare, Inc. (HRHC), an existing FQHC operating in Putnam, Dutchess and Westchester Counties. This collaboration will partner clinical and administrative resources through a management support services agreement and sub-recipient agreement, which will create

efficiencies of an integrated healthcare service network through shared resources.

OPCHSM Recommendation  
Contingent Approval

**Need Summary**

The main site will continue to provide the following services: Medical Services - Primary Care, Medical Services - Other Medical Specialties and Dental O/P services. The extension clinic will provide the following services: Medical Services – Primary Care and Medical Services – Other Medical specialties. The combined number of projected visits is 11,087 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 \$351,392 and will be paid via a loan from UCPA-PSDC at an interest rate of prime (approximately 3.50%) for a ten-year term. The projected budget is as follows:

Revenues	\$2,893,129
Expenses	<u>2,834,038</u>
Gain/(Loss)	\$59,091

## 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 Administrative Services Agreement and Employee Lease Agreement, acceptable to the Department. [HSP]
2. Submission of an executed FQHC sub-grantee agreement between Hudson River HealthCare, Inc. and Hudson Valley Regional Community Health Centers, Inc. [BFA]
3. Submission of an executed loan commitment for the purchase price, that is acceptable to the Department of Health. [BFA]
4. Submission of a working capital loan commitment, acceptable to the Department of Health. [BFA]
5. Submission of an executed asset purchase agreement, acceptable to the Department of Health. [BFA]
6. Submission of an executed technical assistance contract agreement, acceptable to the Department of Health. [BFA]
7. Submission of an executed administrative services agreement, acceptable to the Department of Health. [BFA]
8. Submission of an executed lease rental agreement for the site located at 75 Mount Ebo Road, acceptable to the Department of Health. [BFA]
9. Submission of an executed lease rental agreement for the site located at 301 Manchester Road, acceptable to the Department of Health. [BFA]
10. Submission of a final grant approval letter from United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc. to be used as a source of financing working capital, acceptable to the Department of Health. [BFA]
11. A photocopy of the By-laws of Hudson Valley Regional Community Health Centers, Inc., which is acceptable to the department. [CSL]
12. A photocopy of the Certificate of Incorporation of Hudson Valley Regional Community Health Centers, Inc., which is acceptable to the department. [CSL]
13. A photocopy of the Administrative Support Services and Employee Lease Agreement, which is acceptable to the department. [CSL]
14. A photocopy of the Sublease between United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc. and Hudson Valley Regional Community Health Centers, Inc. which is acceptable to the department. [CSL]
15. A photocopy of the master lease between United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc. and the owner of the health clinic building at 301 Manchester Road, Poughkeepsie, New York 12603, which is acceptable to the department. [CSL]
16. A photocopy of the lease agreement between United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc. and Hudson Valley Regional Community Health Centers, Inc. for the lease of a portion of the premises located at 15 Mount Ebo Road, Brewster, New York 10509, which is acceptable to the department. [CSL]
17. A photocopy of a proposed Certificate of Assumed Name for the applicant to use the assumed name, Hudson Valley Regional Community Health Centers, Inc. - Putnam, which is acceptable to the department. [CSL]
18. A photocopy of a proposed Certificate of Assumed Name for the applicant to use the assumed name, Hudson Valley Regional Community Health Centers, Inc. - Dutchess, which is acceptable to the department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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 staff of the facility must be separate and distinct from other adjacent 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]
6. Submission of documentation of receipt of Health Resources and Services Administration Section 330 Grant funding (as a sub-grantee), acceptable to the Department of Health. [BFA]

Council Action Date

**December 8, 2016**

# Need Analysis

## Background

Hudson Valley Regional Community Health Centers, Inc., seeks approval to become the new operator of an existing diagnostic and treatment center (D&TC) located at 15 Mount Ebo Road South, Brewster, 10509, in Putnam County and to add an extension clinic located at 301 Manchester Road, Poughkeepsie, 12603, in Dutchess County.

## Analysis

The service area for the diagnostic and treatment center is Putnam County. The population of Putnam County was 99,710 in 2010. Per the Cornell Program on Applied Demographics (PAD) projection data, the population of Putnam County is projected to grow by approximately 4% to 103,733 by 2025.

The service area for the extension clinic is Dutchess County. The population of Dutchess County was 297,488 in 2010. Per PAD projection data, the population of Dutchess County is projected to grow by approximately 6.3% to 316,091 by 2025.

Hudson Valley Regional Community Health Centers states it is compliant with HRSA Section 330 requirements to be designated as Federally Qualified Health Centers (FQHC) and a corresponding application will be filed with HRSA seeking designation of these two locations as a FQHC through a sub-recipient agreement with Hudson River Healthcare, Inc. (an existing FQHC). This application proposes to establish a network of D&TCs with FQHC designation to provide coordinated primary and specialty medical services for people with disabilities and co-morbid chronic health conditions throughout both Putnam and Dutchess Counties. Per HRSA, Poughkeepsie (Dutchess County) is designated as a Low Income Medically Underserved Population.

There are three freestanding diagnostic and treatment centers and eight extension clinics operating in Dutchess County that provide primary care and other medical specialties services.

The combined number of projected visits for both sites is 11,087 in Year 1 and 12,196 in Year 3 as shown in the table below.

<u>Facility</u>	<u>Year 1 Visits</u>	<u>Year 3 Visits</u>
D&TC (Putnam County)	9,401	10,341
Extension Clinic(Dutchess County)	<u>1,686</u>	<u>1,855</u>
Total	11,087	12,196

## Conclusion

Approval of this proposed project will allow for the continued access to primary care and other medical specialty services for the communities within Putnam and Dutchess Counties.

## Recommendation

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

## Program Analysis

### Project Proposal

Hudson Valley Regional Community Health Centers, Inc. seeks approval to become the new operator of an existing diagnostic and treatment center located at 15 Mount Ebo Road South in Brewster (Putnam County) that is currently operated by United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc. (UCPA/PSD). In addition, the applicant seeks to add an extension clinic in nearby Dutchess County to be located at 301 Manchester Road in Poughkeepsie.

The primary purpose of this project is to improve services to current patients and to expand primary and specialty medical care, mental health and dental services for individuals with chronic health conditions, primarily those with disabilities.

The Applicant will partner and collaborate with UCPA/PSD, a not-for-profit provider of services and support for persons with disabilities. The Applicant also intends on filing a corresponding application to seek designation of its two locations as Federally Qualified Health Centers (FQHC) through a sub-recipient agreement with Hudson River Healthcare, Inc., an FQHC operating in Putnam and Dutchess Counties.

Upon approval, the two sites would be certified as follows:

Site	PFI	New Certified Services and Status
Hudson Valley Regional Community Health Centers, Inc. – Putnam 15 Mount Ebo Road South Brewster, NY 10509	3921	Medical Services – Primary Care Medical Services – Other Specialties Dental (Outpatient) Services  <i>Shall be designated as the Main Site</i>
Hudson Valley Regional Community Health Centers, Inc. – Dutchess 301 Manchester Road Poughkeepsie, NY 12603	TBD	Medical Services – Primary Care Medical Services – Other Specialties  <i>Shall be designated as an Extension Clinic</i>

### Character and Competence

The proposed Board of Directors for Hudson Valley Regional Community Health Centers, Inc. will be comprised of the following individuals:

Howard Yager	Chairperson Designate, Board Member
Arun Agarwal, M.D.	Board Member
Edwin Alvarez	Board Member – Patient Representative
Fergal Foley	Board Member
Kenneth M. Ford	Board Member – Patient Representative
Thomas Mandelkow	Board Member
Richard E. Parente	Board Member – Patient Representative
Julie T. Rotta	Board Member – Patient Representative
Rev. Christie Y. Smith	Board Member – Patient Representative

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. Agarwal disclosed one pending malpractice case.

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

### Asset Purchase Agreement

The applicant has submitted a draft asset purchase agreement, which is summarized below:

Seller:	United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc.
Buyer:	Hudson Valley Regional Community Health Center, Inc.
Assets Transferred:	The buyer shall purchase the following assets: medical equipment, furniture and computer related equipment.
Assumed Liabilities:	The buyer shall assume any obligation or liabilities of the Seller.
Purchase Price:	\$351,392

The purchase price will be paid via a loan is from United Cerebral Palsy Association of Putnam and Southern Dutchess Counties. Inc., to be paid back at an interest rate of prime (approximately 3.50%) for a ten-year term.

The applicant has submitted an 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 Seller of its liability and responsibility. Currently, there are no outstanding Medicaid liabilities or assessments due.

### Sub-Recipient Agreement

The applicant has submitted a draft sub-recipient agreement, which is summarized below:

Parties:	Hudson River Healthcare, Inc. (HRHCare) FQHC and Hudson Valley Regional Community Health Center, Inc. (Sub-Recipient)
Purpose:	This agreement is a sub-award of US Department of Health and Human Services HSRA grant funds awarded by HRHCare to Sub-Recipient. It is a cost reimbursement agreement pursuant to which HRHCare will pay Sub-Recipient for certain actual and allowable costs incurred in delivering the required services.
Services Provided:	Primary medical care, gynecological services, behavioral health, dental services, rehabilitative services, non-surgical eye care, podiatry, nursing and medical rehabilitation.
Fee:	HRHCare shall pay Sub-Recipient in consideration of performing the required services, a total amount not to exceed \$75,000 per year.
Term:	Three years with one three-year project period.

### Technical Assistance Contract

The applicant has submitted a draft technical assistance contract, summarized below:

Purpose:	Provide technical assistance and training services.
Facility:	Hudson Valley Regional Community Health Centers, Inc. (HVR Community Health Centers, Inc.)
Contractor:	Solutions 4 Community Health.
Services Provided:	Technical assistance with the following: development of a quality improvement plan and quality measurement initiatives; assistance in the eClinical/Works (eCW) electronic medical records software's meaningful use standards compliance; assessment of feasibility, assistance in development of a joint commission compliance plan; assistance in the development of a Medicare "medical time" recognition plan; training for providers and clinical staff, consultation with FQHC standards and compliance and Uniform Data Set reporting and consultation and collaborating on health center and service development.
Term	From the Effective Date until terminated. Either party may terminate this Agreement upon thirty days prior written notice to the other.
Compensation:	\$100,000 per year

### Administrative and Support Services Employee Lease Agreement

The applicant has submitted a draft administrative support services and employee lease agreement, which is summarized below:

Facility:	Hudson Valley Regional Community Health Centers, Inc.
Contractor:	United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc.
Services Provided:	Payment of all payroll related legal obligations, including payroll withholding taxes and other obligations related to employment and benefits, maintain all books of account, submit, post and maintain all patient account records from all payment sources, prepare and publish financial statements on a periodic basis, assemble and compile all regulatory report filing with State, local and Federal entities or as required by any of HVR Community Health Centers contract obligations, including providing UDS data to Urban Health Plan, arrange and service all types of insurance as required, prepare required information for HVR Community Health Centers accounting firm to file all required tax returns and prepare annual financial statements, administer all employee health and welfare plans, provide necessary IT infrastructure/network for information and transaction processing, provide any and all essential management support assistance necessary to ensure financial stability and efficient clinical operations. The Contractor shall furnish to HVR Community Health Centers persons to fill various administrative, clerical and other support services.
Term:	Five years with a five-year renewal period.
Compensation:	\$140,378 annually

### Lease Rental Agreement

The applicant has provided a draft lease rental agreement for the 15 Mount Ebo Road, Brewster, New York site and a draft sublease agreement for the 301 Manchester Road, Poughkeepsie, New York site, which is summarized below:

#### 15 Mount Ebo Road, Brewster Site:

Premises:	6,529 square feet of the premises located at 15 Mount Ebo, Brewster, New York.
Lessor:	United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc.
Lessee:	Hudson Valley Regional Community Health Centers, Inc.
Rental:	\$228,515 (\$35.00 per sq. ft.) in Year One with a 3% increase each year.
Term:	10 years
Provisions:	The lessee shall be responsible for insurance, repairs and utilities.

301 Manchester Road (Sublease):

Premises:	3,878 square feet located at 301 Manchester Road, Poughkeepsie, New York.
Sublessor:	United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc.
Sublessee:	Hudson Valley Regional Community Health Center, Inc.
Rental:	\$124,096 (\$32.00 per sq. ft.) with a 3% increase each year.
Term:	10 years
Provisions:	The sublessee shall be responsible for insurance, repairs and utilities.

Operating Budget

The applicant has submitted an operating budget, in 2016 dollars (based on FQHC rates), 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>Total</u>
<u>Revenues</u>							
Medicare	\$80.51	\$345,479	\$133.62	\$66,676	\$133.62	\$74,091	
Medicare/coinsurance		NA	33.40	16,669	33.40	18,523	
Medicare/Medicaid		NA	235.32	1,968,900	235.32	2,187,519	
Medicaid	255.76	1,250,409	235.32	400,510	235.32	440,514	
Commercial	90.75	63,343	153.04	31,895	153.04	35,199	
Self-Pay	34.91	3,491	60.51	18,757	60.51	20,633	
Other*		NA		116,650		116,650	
Total Revenues		\$1,662,722		\$2,620,057		\$2,893,129	
<u>Expenses</u>							
Operating	\$161.32	\$1,609,647	\$213.43	\$2,366,350	\$197.20	\$2,405,057	
Capital	53.68	535,580	37.70	428,981	35.17	428,981	
Total Expenses	\$215.00	\$2,145,227	\$251.13	\$2,795,331	\$232.37	\$2,834,038	
Gain/(Loss)		<u>(\$482,505)</u>		<u>(\$175,274)</u>		<u>\$59,091</u>	
Utilization (Visits)		9,978		11,087		12,196	
Cost Per Visit		\$215.00		\$252.13		\$232.37	

\* Other consists of \$75,000 in HRSA Section 330 grant funding (as a sub-recipient) and \$41,650 in Meaningful Use funds.

Expense and utilization assumptions are based on the current actual UCPA Clinic experience. The first year loss will be covered from working capital.

Utilization, broken down by payor source, during the current (2015), first and third years, are as follows:

	<u>Current (2015)</u>	<u>Year One and Three</u>
Commercial	7.00%	1.88%
Medicare	43.00%	79.97%
Medicaid	49.00%	15.35%
Private Pay	1.00%	2.80%

The applicant provided a sensitized budget assuming revenues if the facility is does not become a FQHC:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,686,087	\$2,001,496
Expenses	1,883,439	1,943,433
Gains/(Loss)	(\$197,352)	\$58,063

The projected revenues in the sensitized budget are based on the current average payment rate experience of the facility per Medicare's 2016 PPS rate (\$133.62), Medicaid's APG rate (\$133.00), Commercial (\$153.04) and Uninsured/Self-Pay (\$60.51). Expenses have been reduced to eliminate rental payments and administrative and management services fee payments to UCPA-PSDC that would be suspended to ensure the continuing delivery of quality care. The Chairman of the UCPA-PSDC Board

has provided a letter attesting that if the new D&TC does not achieve federal FQHC designation, lease rental payments and administrative and management services fees will be suspended to remedy losses. The suspended payments would remain in effect until the D&TC develops an operating plan with future financial sustainability.

#### Capability and Feasibility

The purchase price for the operations is \$351,392. The purchase price will be paid via a loan from UCPA-PSDC at an interest rate of prime (approximately 3.50%) for a ten-year term.

Working capital requirements are estimated at \$472,340 based on two months of third year expenses. The applicant will finance \$236,170 via a loan from UCPA-PSDC at an interest rate of prime (approximately 3.50%) for a five-year term. The remaining \$236,170 will be in the form of grant funding from UCPA-PSDC. BFA Attachment A is the pro forma balance sheet as of the first day of operation, which indicates a positive net asset position of \$236,185.

The submitted budget projects an excess of revenues over expenses of (\$175,274) and \$59,091 during the first and third years after the change in ownership. The first year loss will be offset from their working capital funds. Revenues reflect current reimbursement methodologies for diagnostic and treatment services that have FQHC status. The applicant submitted a sensitized budget that includes revenues not associated with a FQHC status. The sensitized budget projects an excess of revenues over expenses of (\$197,352) and \$58,063 during the first and third years, respectively.

BFA Attachment B is the 2014 and 2015 certified financial statements for United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc. As shown, the entity had an average negative working capital position and an average positive net asset position from 2014 through 2015. Also, the entity incurred an average operating loss of \$318,213 from 2014 through 2015. The applicant indicated that the reason for the losses is due to reimbursement rates that are insufficient to support the higher intensity care required by people with disabilities. The facility has been working to increase clinical efficiency and billing cycles, but has been unable to make up for the inadequacy of the rates for the specialized services they provide.

BFA Attachment C is the internal financial statements of United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc. as of September 31, 2016. As shown, the entity had a negative working capital position and a positive fund balance through September 31, 2016. Also, the entity achieved an excess of revenues over expenses of \$114,207 through September 31, 2016.

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.**

## Attachments

BFA Attachment A	Pro Forma Balance Sheet
BFA Attachment B	Financial Summary- 2014 and 2015 certified financial statements of United Cerebral and Palsy Association of Putnam and Southern Dutchess Counties, Inc.
BFA Attachment C	Financial Summary- September 31, 2016 internal financial statements of United Cerebral Palsy Association of Putnam and Southern Dutchess Counties, Inc.
BHFP Attachment	Map



## 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 photocopy of the By-Laws of Bedford Medical Family Health Center 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

**December 8, 2016**

# Program Analysis

## Program Description

Bedford Medical Family Health Center, Inc., an existing Article 28 Diagnostic and Treatment Center located at 100 Ross Street in Brooklyn (Kings County), requests approval to transfer 49% shareholder interest to one new shareholder.

Bedford Medical Family Health Center is located in a Section-8 building complex in Kings County, and has been providing services primarily to an Orthodox-Jewish, Yiddish-speaking community for over three decades. Peter Ruzohorsky, M.D., the existing sole shareholder of the Center, wishes to gift his daughter, Ariella Ritvo, to establish the next generation of ownership at the Center and ensure that the Center serves the community well into the future.

There are no staffing or programmatic changes anticipated as a result of this application.

## Character and Competence

The table below details the proposed change in ownership:

<u>Members</u>	<u>Position</u>	<u>Current</u>	<u>Proposed</u>
Peter Ruzohorsky, M.D.	President	100%	51%
Ariella Ritvo	Vice Pres./ Secretary	----	49%

Ms. Ritvo serves as the Administrator of the Center, a position she has held for over 15 years and will continue to hold. She has considerable experience in the day-to-day operation of the Center, and commits to sustain the Center and enhance its future viability.

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.

## Conclusion

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

## Recommendation

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

## Financial Analysis

### Stock Conveyance Agreement

The applicant has submitted an executed Stock Conveyance Agreement to transfer shares of the Center. The terms are summarized below

Date:	June 22, 2016
Transferor:	Peter Ruzohorsky, M.D.
Transferee:	Ariella Ritvo
Stocks transferred:	98 shares (49% ownership interest)
Purchase Price:	\$0

Dr. Ruzohorsky has submitted an affidavit noting that he is gifting 98 shares to his daughter, Ariella Ritvo. The applicant also submitted stock certificates dated July 3, 2016 for both Peter Ruzohorsky and Ariella Ritvo noting the proposed transfer of shares. The stock certificates provide that no person shall own 10% or more of the stock of the corporation unless approved for such ownership by the Public Health and Health Planning Council.

### Capability and Feasibility

There are no project costs or purchase price associated with this transaction. BFA Attachment A provides the personal net worth statement of Ariella Ritvo, which shows the availability of sufficient liquid resources.

No budget analysis was necessary as this is a transfer of 49% ownership interest in the D&TC via gift from the sole shareholder, and the facility is not proposing to change its business model, which has historically been profitable.

BFA Attachment B is the 2014-2015 certified financial summary of Bedford Medical Family Health Center, Inc. and internal financials as of June 30, 2016. As shown, the facility had negative net asset position and negative working capital in 2014. The 2014 negative working capital was due to Peter Ruzohorsky, M.D., the Center's sole shareholder, taking a cash distribution. This position was reversed in 2015 and 2016 showing a positive working capital position and a positive net asset position. Also, the facility achieved a net income for each of the periods shown.

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

### Recommendation

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

## Attachments

BFA Attachment A	Net Worth Statement of Proposed Member
BFA Attachment B	2014 – June 30, 2016 Financial Summary- Bedford Medical Family Health Center, Inc.



**Project # 161356-B**  
**USRC Forest Hills, LLC d/b/a U.S. Renal Care Forest Hills  
Dialysis**

**Program:** Diagnostic & Treatment Center      **County:** Queens  
**Purpose:** Establishment and Construction      **Acknowledged:** May 26, 2016

**Executive Summary**

**Description**

USRC Forest Hills, LLC d/b/a U.S. Renal Care Forest Hills Dialysis, a New York limited liability company, requests approval to establish and construct a 24-station Article 28 end-stage renal dialysis (ESRD) center. The proposed center will occupy 11,000 square feet of lease space in an existing building located at 68-54 Austin Street, Forest Hills (Queens County). The facility will provide in-center hemodialysis and home peritoneal dialysis services.

The proposed members of USRC Forest Hills, LLC are as follows:

**USRC Forrest Hills, LLC**

<u>Members</u>	<u>%</u>
USRC Alliance, LLC	51%
U.S. Renal Care, Inc. (100%)	
IHS Dialysis, Inc.	29%
Nelson Shaller (100%)	
Wei Yue Sun, M.D.	5%
Elizabeth Liang, M.D.	5%
Laurel Win Yap, M.D.	5%
Li Yang, M.D.	5%

As of mid-June 2016, U.S. Renal Care, Inc. (USRC) operated 310 outpatient ESRD centers in 29 states and the Territory of Guam. In New York State (NYS), USRC has indirect ownership in the following ESRD centers:

- U.S. Renal Care Cheektowaga Dialysis (13 stations);
- U.S. Renal Care Tonawanda Dialysis (13 stations);

- U.S. Renal Care Williamsville Dialysis (13 stations).
- U.S. Renal Care Pelham Parkway Dialysis (25 stations, acquired April 4, 2016); and
- U.S. Renal Care South Flushing Dialysis (25 stations), acquired April 4, 2016).

Additionally, USRC’s indirect ownership of DSI Dutchess Dialysis, Inc. (24 stations) was contingently approved under CON 152118 on December 14, 2015, and is pending final approval.

**OPCHSM Recommendation  
Contingent Approval**

**Need Summary**

These new stations will provide needed access to ESRD services in Queens County. Upon project completion there will still be need of 93 stations.

**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 total project cost of \$4,061,995 will be met with \$406,200 in members' equity and an intercompany loan from USRC for \$3,655,795 at the current prime rate plus 2% (8% maximum) and a five-year term starting at the end of the draw period (2<sup>nd</sup> anniversary of the facility's Medicare Certification).

The projected budget is as follows:

	<u>Year One</u>	<u>Year three</u>
Revenues	\$1,239,032	\$4,331,671
Expenses	<u>\$2,313,560</u>	<u>\$3,773,838</u>
Net Income	(\$1,074,528)	\$557,833

## 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. A copy of the check must be uploaded into NYSE-CON upon delivery. [PMU]
2. Submission of an executed Administrative Services Agreement, acceptable to the Department. [HSP]
3. Submission of an executed Medical Director agreement, acceptable to the Department. [HSP]
4. Submission of an executed Intercompany Loan, acceptable to the Department of Health. [BFA]
5. Submission of an executed Promissory Note, acceptable to the Department of Health. [BFA]
6. Submission of an executed Administrative Services Agreement, acceptable to the Department of Health. [BFA]
7. Submission of an executed building lease, acceptable to the Department of Health. [BFA]
8. The submission of State Hospital Code (SHC) Drawings, acceptable to the Department, as described in BAEFP Drawing Submission Guidelines DSG-03. (AER)
9. Submission of a photocopy of the applicant's amended and executed Medical Director's Agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's amended and executed Amended and Restated Administrative Service Agreement, acceptable to the Department. [CSL]
11. Submission of a photocopy of the applicant's amended and executed Operating Agreement, acceptable to the Department. [CSL]
12. Submission of a photocopy of the applicant's executed lease, demonstrating site control, acceptable to the Department. [CSL]
13. Submission of a photocopy of USRC's Authority to Do Business in the State of New York, acceptable to the Department. [CSL]
14. Submission of a photocopy of IHS Dialysis Inc.'s Authority to Do Business in the State of New York, 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. Construction must start on or before March 1, 2017 and construction must be completed by August 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. [PMU]
3. 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)

Council Action Date

**December 8, 2016**

# Need Analysis

## Project Description

USRC Forest Hills, LLC is seeking approval to establish and construct a 24-station chronic renal dialysis center in Forest Hills (Queens County). The proposed center will be located at 68-54 Austin Street, Forest Hills. The applicant plans to provide home peritoneal dialysis in addition to in-center treatments.

## Analysis

The primary service area for the new facility will be Queens County, which had a population estimate of 2,339,150 for 2015. The percentage of the population aged 65 and over was 13.8%. The nonwhite population percentage was 51.3%. These are the two population groups that are most in need of end stage renal dialysis service. Comparisons between Queens County and New York State are shown below.

	Queens County	New York State
Ages 65 and Over	13.8%	15.0%
Nonwhite	51.3%	29.9%

Source: U.S. Census 2015

## Need Projections

The Department's methodology to estimate capacity for chronic dialysis stations is as follows:

- One free standing station represents 702 treatments per year. This is based on the expectation that the center will operate 2.5 patient shifts per day at 6 days per week, which is 15 patients per week, per station [(2.5 x 6) x 52 weeks] equals 780 treatments per year. Assuming a 90% utilization rate based on the expected number of annual treatments (780), the annual treatments per free standing station is 702. The estimated average number of dialysis procedures each patient receives from a free standing station per year is 156.
- Per Department policy, hospital-based stations can treat fewer patients per year. Statewide, the majority of stations are free standing, as are the majority of applications for new stations. As such, when calculating the need for additional stations, the Department bases the projected need on establishing additional free standing stations and excludes hospital-based stations.
- There are currently 525 free-standing chronic dialysis stations operating in Queens County and 210 in pipeline for a total of 735.
- Based upon DOH methodology, the 735 existing free standing stations in Queens County could treat a total of 3,308 patients annually.

		Actual		Projected	
		2014	2016	2019	
<b>Queens County Residents</b>					
Need projected 5 years out from most current IPRO data available for <b>Patients Treated in County</b>		<b>Total Patients Treated in County</b>	<b>Total County Residents in Treatment</b>	<b>Total Patients Treated in County<sup>1</sup></b>	<b>Total County Residents in Treatment<sup>1</sup></b>
		3,741	3,834	4,337	4,190
<b>Free-Standing Dialysis Stations</b>		<b>2014</b>	<b>2016</b>	<b>2019</b>	
A	Stations Required to Treat <sup>2</sup>	832	852	964	932
B	Existing Stations	525	525	525	525
C	Stations In Pipeline	210	210	210	210
D	Stations Requested this CON	24	24	24	24
E	w/Approval of This CON (B+C+D)	759	759	759	759
F	Unmet Need With Approval (A-E)	73	93	205	173

<sup>1</sup>Based upon an estimated 3% accrued annual increase

<sup>2</sup>Based upon DOH methodology (total patients/4.5)

Estimates for need are provided for 2019 because it is expected that this facility will be fully utilized by that time. A three percent annual increase in demand is appropriate for these calculations due to the high minority population and the high population growth rate in the county.

**Conclusion**

The addition of 24 stations will expand access to dialysis services for the people of Queens County, and will help address the shortage of stations in the County.

**Recommendation**

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

**Program Analysis**

**Project Proposal**

USRC Forest Hills, LLC, a limited liability company, requests approval to establish and construct a 24 station chronic renal dialysis center at 68-54 Austin Street, in Forest Hills (Queens County).

<b>Proposed Operator</b>	USRC Forest Hills, LLC
<b>Doing Business As</b>	U.S. Renal Care Forest Hills Queens
<b>Site Address</b>	68-54 Austin Street Forest Hills, NY 11375 (Queens County)
<b>Approved Services</b>	Chronic Renal Dialysis (24 Stations) Home Peritoneal Dialysis Training and Support
<b>Shifts/Hours/Schedule</b>	Initially, the Center will be open: Monday, Wednesday and Friday. When fully operational, it will be open: Monday through Saturday From 5:30 am through 11:00 pm
<b>Staffing (1<sup>st</sup> Year / 3<sup>rd</sup> Year)</b>	7.5 FTEs increasing by 12.5 FTEs by the third year of operation
<b>Medical Director(s)</b>	Elizabeth Liang, MD
<b>Emergency, In-Patient and Backup Support Services Agreement and Distance</b>	Expected to be provided by LIJ-Forest Hills Hospital 0.6 miles / 5 minutes away

**Character and Competence**

The proposed members of USRC Forest Hills, LLC and their ownership interests are as follows:

<b>Name</b>	<b>Membership</b>
<b>US Renal Care, Inc.</b>	<b>51.0%</b>
Stephen M. Pirri, <i>manager</i>	
Thomas L. Weinberg	
James D. Shelton, <i>manager</i>	
John C. Brengard, <i>manager</i>	
David Eldridge	
<b>IHS Dialysis, Inc.</b>	<b>29.0%</b>
Nelson C. Shaller (100%)	
<b>Wei Yue Sun, MD, manager</b>	<b>5.0%</b>
<b>Elizabeth Liang, MD, manager &amp; Medical Director</b>	<b>5.0%</b>
<b>Laurel Win Yap, MD</b>	<b>5.0%</b>
<b>Li Yang, MD</b>	<b>5.0%</b>

Member Elizabeth Liang, MD, will serve as the Center's Medical Director. Dr. Liang completed a Nephrology Fellowship Albert Einstein College of Medicine and is board-certified in Internal Medicine with sub-certification in Nephrology. She has admitting privileges at LIJ-Forest Hills Medical Center, the identified back-up affiliate.

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.

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.

The officers of U.S. Renal Care (USRC) disclosed that U.S. Renal Care acquired Dialysis Corporation (DCA) in June 2010, however, in February 2010, DCA had been subpoenaed by the Office of the Inspector General of the U.S. Department of Health and Human Service (OIG) with respect to an investigation relating to alleged improper Medicare and Medicaid billing at certain DCA clinics. The investigation related to two qui tam suits with the Department of Justice and private litigants. USRC denied any impropriety or liability by DCA in both cases, but determined that it should settle those cases with the government and private litigants which it did in May 2013 and September 2014. Both suits have been dismissed. No non-DCA facilities owned by USRC were involved in the investigations and litigation.

On September 16, 2015, the Department issued a Stipulation and Order and a \$2,000 fine to IHS of New York, Inc. as operator of Pelham Parkway Dialysis Center for violations of Article 28 of the Public Health Law and Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR). As detailed in a Statement of Deficiencies issued in July 2015, the Department discovered that, on or about May 27, 2015, Nelson Shaller, the owner of 100% of shares of stock in IHS of New York, Inc., had transferred all of the shares he owned to another corporation (in which he is also 100% owner) without prior approval from the Public Health and Health Planning Council. The Department directed that an appropriate Certificate of Need Application be filed and that documentation be submitted (within Department specified time frames) to complete the application process. In addition to the monetary penalty, the Department has directed IHS/Mr. Shaller to submit quarterly reports for a one year period which detail the steps taken to implement the corrective action plan and to assess their effectiveness.

#### Star Ratings - Dialysis Facility Compare (DFC)

The Centers for Medicare and Medicaid Services (CMS) and the University of Michigan Kidney Epidemiology and Cost Center have developed a methodology for rating each dialysis facility which may be found on the Dialysis Facility Compare website as a "Star Rating." The method produces a final score that is based on quality measures currently reported on the DFC website and ranges from 1 to 5 stars. A facility with a 5-star rating has quality of care that is considered 'much above average' compared to other dialysis facilities. A 1- or 2- star rating does not mean that a facility provides poor care. It only indicates that measured outcomes were below average compared to other facilities. Star ratings on DFC are updated annually to align with the annual updates of the standardized measures.

The DFC website currently reports on nine measures of quality of care for facilities. The measures used in the star rating are grouped into three domains by using a statistical method known as Factor Analysis. Each domain contains measures that are most correlated. This allows CMS to weight the domains rather than individual measures in the final score, limiting the possibility of overweighting quality measures that assess similar qualities of facility care.

To calculate the star rating for a facility, each domain score between 0 and 100 by averaging the normalized scores for measures within that domain. A final score between 0 and 100 is obtained by averaging the three domain scores (or two domain scores for peritoneal dialysis-only facilities). Finally, to recognize high and low performances, facilities receive stars in the following way:

- Facilities with the top 10% final scores were given a star rating of 5.
- Facilities with the next 20% highest final scores were given 4 stars.
- Facilities within the middle 40% of final scores were given 3 stars.
- Facilities with the next 20% lowest final scores were given 2 stars.
- Facilities with the bottom 10% final scores were given 1 star.

U.S. Renal Care, Inc. operates over 300 dialysis facilities in 31 states and the Territory of Guam. As USRC will have a 51% membership interest in USRC Forest Hills, LLC, the Star Ratings profile for USRCs New York facilities is provided below. (A comprehensive list of Star Ratings for all USRC-operated centers was provided in CONs 151070 and 151072, which the Council reviewed and approved in December 2015, and in CON 152263, which the Council reviewed and approved in April 2016.)

IHS Dialysis, Inc. owns and operates clinics in Georgia, Massachusetts, and New York. (Star ratings for all IHS Dialysis facilities are listed below.)

STAR Rating for USRC-affiliated facilities operating in New York State are noted in the chart below:

U.S. Renal Care Cheektowaga Dialysis Center	2875 Union Road, Suite 13 C/D Cheektowaga NY 14225	★ ★ ● ● ●
U.S. Renal Care Williamsville Dialysis	7964 Transit Road Suite 8-A Williamsville NY 14221	★ ★ ★ ★ ★
U.S. Renal Care Tonawanda Dialysis	3161 Eggert Road Tonawanda NY 14150	★ ★ ★ ★ ●
U.S. Renal Care Pelham Parkway Dialysis (Acquired April 4, 2016)	1400 Pelham Parkway South Bldg. 5 Dialysis Center Bronx, NY 10461	★ ★ ★ ★ ●
U.S. Renal Care South Flushing Dialysis (Acquired April 4, 2016)	71-12 Park Avenue Flushing, NY 11365	Facility Information Not Available
DSI Dutchess Dialysis (Acquired 1/1/2016)	2585 South Road Poughkeepsie, NY 12601	★ ★ ★ ● ●

(Information retrieved from <http://www.medicare.gov/dialysisfacilitycompare/#> on 10/20/16.)

STAR Ratings for IHS Dialysis-affiliated facilities include Pelham Parkway Dialysis and South Flushing Dialysis (noted above), as well as the following out-of-state facilities:

Advanced Directions Renal Care Center	1250 Hancock St., Suite 204N-B Quincy, MA 02169	Facility Information Not Available
U.S. Renal Care Quincy Dialysis	1250 Hancock St., Ste 110N Quincy, MA 02169	★ ★ ★ ★ ●
U.S. Renal Care Foxborough Dialysis	10 Lincoln Road Foxborough, MA 02035	★ ★ ★ ★ ●
Advanced Kidney Therapies	3200 Cobb Galleria Pkwy, Ste. 228 Atlanta, GA 30339	Facility Information Not Available

(Information retrieved from <http://www.medicare.gov/dialysisfacilitycompare/#> on 10/20/16.)

#### Conclusion

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

Recommendation

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

## Financial Analysis

### Total Project Costs and Financing

Total project costs for renovation and moveable equipment are estimated at \$4,061,995 broken down as follows:

Renovation & Demolition	\$2,849,750
Design Contingency	11,000
Construction Contingency	284,975
Architect/Engineering Fees	110,000
Movable Equipment	782,062
Application Fees	2,000
Additional Processing Fees	<u>22,208</u>
Total Project Cost	\$4,061,995

Project costs are based on a construction start date of March 1, 2017, with a five-month construction period.

The total project costs will be funded as follows:

Equity-USRC Forest Hill, LLC Members	\$406,200
USRC Intercompany Loan (prime plus 2%, 8% max., interest only during draw period, 5-year term starting at end of draw (2 <sup>nd</sup> anniversary of Medicare Certification))	<u>\$3,655,795</u>
Total	\$4,061,995

BFA Attachments A and C are, respectively, the net worth summary of USRC Forest Hills, LLC's members and the Financial Statements USRC and IHS Dialysis, Inc., which reveal sufficient resources to meet the equity requirements. The applicant has provided a draft Intercompany Loan agreement with USRC and a draft Promissory Note for the loan.

### Lease Rental Agreement

The applicant submitted a draft lease agreement; the terms are summarized below:

Premises:	11,000 sq. ft. located at 68-54 Austin Street, Forest Hills, NY 11375
Landlord:	68-60 Austin Street Realty Corporation
Lessee:	USRC Forest Hills, LLC
Term:	10 years with two 5-year renewal options.
Rental:	Years 1-3: \$506,000 per year (\$46.00 per sq. ft., \$42,166.67 per month) Years 4-6: \$531,300 per year (\$48.30 per sq. ft., \$44,275 per month) Years 7-10: \$557,865 per year (\$50.72 per sq. ft., \$46,488.75 per month)
Provisions:	Tenant will be responsible for maintenance, utilities and real estate taxes.

An affidavit has been submitted stating that the lease is an arm's length lease. The applicant submitted letters from two NYS licensed realtors attesting to the reasonableness of the per square foot rental rate.

Administrative Services Agreement

The applicant submitted a draft administrative services agreement (ASA), as summarized below:

Facility:	USRC Forest Hills, LLC
Contractor:	U.S. Renal Care, Inc.
Services Provided:	Personnel training, monitoring and oversight; assist with compensation, benefits, personnel policies, and performance standards for administrative and ancillary health care staff; provide at cost of the Licensed Operator, supplies and inventory necessary for the clinic's operation under national and regional supply agreements; assist in purchasing drugs and medical supplies; patient billing/collecting functions; assist in report preparation and filing, contract negotiations, and reimbursement related audits; assist in maintenance of financial records; manage clinics funds; obtain appropriate commercial insurance coverage; recommend operational policies and procedures to establish appropriate standards of patient care; provide access to selected proprietary software; at the Licensed Operator's cost furnish all medical and office equipment, furniture and fixtures, maintain equipment and make necessary capital improvements; assist in development of quality assurance and review programs, maintain licenses and permits including Medicaid and Medicare provider numbers; assist in compliance with all applicable federal and state rules and regulations
Term:	10 years
Fee:	Year 1 - \$95,000, Year 2 - \$195,000, Year 3 - \$345,000, Year 4 and onwards at fair market value (FMV) of services provided.

While U.S. Renal Care Inc. will provide the above services, the Licensed Operator retains ultimate authority, responsibility, and control of the operations.

There is common ownership between the applicant and the ASA provider, as shown on BFA Attachment B, post-closing organization chart.

Operating Budget

The applicant submitted an operating budget for Year One and Three, in 2016 dollars, as summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Treatment</u>	<u>Total</u>	<u>Per Treatment</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid-FFS	\$220.00	\$18,700	\$219.94	\$195,746
Medicaid-MC	\$240.00	\$87,600	\$240.01	\$557,064
Medicare-FFS	\$350.00	\$213,150	\$299.96	\$1,121,865
Medicare-MC	\$350.00	\$246,750	\$300.03	\$1,199,235
Commercial-FFS	\$1,098.23	\$191,092	\$950.00	\$459,800
Commercial-MC	\$1,101.81	\$187,308	\$947.86	\$519,429
Private Pay	\$760.81	<u>\$294,432</u>	\$600.28	<u>\$278,532</u>
Total		\$1,239,032		\$4,331,671
<u>Expenses</u>				
Operating	\$380.15	\$969,378	\$192.79	\$2,486,074
Capital	\$527.13	<u>\$1,344,182</u>	\$99.87	<u>\$1,287,764</u>
Total		\$2,313,560		\$3,773,838
Net Income		(\$1,074,528)		\$557,833
Total Treatments		2,550		12,895
Cost per Treatment		\$907.28		\$292.66

Utilization broken down by payor source during years one and three is as follows:

<u>Payor</u>	<u>Year One</u>		<u>Year Three</u>	
	<u>Treatments</u>	<u>%</u>	<u>Treatments</u>	<u>%</u>
Medicaid-FFS	85	3%	890	7%
Medicaid-MC	365	14%	2,321	18%
Medicare-FFS	609	24%	3,740	29%
Medicare-MC	705	28%	3,997	31%
Commercial-FFS	174	7%	484	4%
Commercial-MC	170	7%	548	4%
Private Pay	387	15%	464	4%
Charity	<u>55</u>	<u>2%</u>	<u>451</u>	<u>3%</u>
Total	2,550	100%	12,895	100%

The following is noted with respect to the submitted budget:

- Revenues are based on the actual experience of similar outpatient dialysis centers owned by USRC and located in the proposed center's service area. Revenues assume bundled ESRD rates for Medicaid and Medicare per the payors' current reimbursement methodologies, while the commercial rates are based on USRC's established contracts within the proposed center's services area.
- Expenses are based on current market rates and USRC's contracted rates. Expenses include consideration for the average clinical utilization of medications and medical supplies, utilities, equipment and professional fees.
- Utilization is based on USRC's standard utilization methodology for opening a new dialysis facility in a region, which includes conservative estimates during the initial start-up period.
- Breakeven utilization for the third year is 87.12% or 11,234 treatments.

The budget is reasonable.

#### Capability and Feasibility

Project costs of \$4,061,995 will be met via members' equity of \$406,200 and an intercompany loan from USRC for \$3,655,795 at the above stated terms. The applicant has provided a draft of the USRC Intercompany Loan agreement.

Working capital requirements are estimated at \$628,973 based on two months of third year expenses. The applicant indicated they will provide \$630,000 for working capital with \$315,000 from members' equity and \$315,000 to be satisfied through an intercompany loan from USRC Inc. with the same terms as provided for the total project cost loan. The applicant has provided a draft Intercompany Loan agreement with U.S. Renal Care, Inc. and a draft Promissory Note, which includes consideration of both the working capital requirement and the total project costs financings.

BFA Attachment A provides the members' personal net worth statements, which shows sufficient liquid resources to meet their portion of the projects equity requirements. BFA Attachment C, USRC and Subsidiaries' 2014-2015 certified financial statements and internal financials as of June 30, 2016, shows the entity maintained positive working capital and net asset positions for the period, and generated net income after taxes of \$63,434,000 in 2015 and \$19,655,525 for the six months ending June 30, 2016. As shown, USRC has sufficient liquid resources available to cover their portion of both equity requirements and to provide the funding for both intercompany loans. BFA Attachment C is IHS's 2014-2015 certified financial statements and internal financial as of June 30, 2016, which indicates the entity maintained positive working capital, had positive net assets for the period and generated net income of \$14,029,413 as of June 30, 2016. As shown, IHS has sufficient liquid resources available to cover their portion of equity requirements.

BFA Attachment D is USRC Forest Hills, LLC d/b/a U.S. Renal Care Forest Hills Dialysis' pro forma balance sheet, which shows operations will start with \$721,200 in equity.

The submitted budget indicates a net loss of \$1,074,528 for Year One and a net income of \$557,833 for Year Three. Revenues are based on the current reimbursement methodologies for dialysis services. The Year One loss is due to the start-up of operations. U.S Renal Care, Inc. has provided an affidavit stating they are prepared to cause its wholly-owned subsidiary and majority member of the Company, USRC Alliance, LLC, to take steps necessary to cause the members of the Company to contribute additional capital on a pro rata basis (in accordance with section 2.1(d) of the Company Agreement) to cover any Year One shortfalls. In the event the minority members of the Company are unwilling or unable to make such contributions, then U.S. Renal Care, Inc. is prepared to cause USRC Alliance, LLC to contribute up to \$1,100,000 to the Company to cover any such shortfalls. The submitted budget is reasonable.

BFA Attachment E is the financial summaries of U.S. Renal Care, Inc.'s NYS affiliated dialysis centers for the period 2014 through June 30, 2016, which shows that each facility had a positive working capital positions, positive net asset positions and operating surpluses for the period shown with the exception of the following:

- In 2015, USRC Tonawanda and USRC Cheektowaga had a negative working capital position due to negative intercompany payables, which misstated the current assets.

Subject to the noted contingencies, 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	Net Worth Statements of the members' of USRC Forest Hill, LLC
BFA Attachment B	Post- Closing Organizational Chart
BFA Attachment C	Financial Summary & U.S. Renal Care, Inc. & Subsidiaries & IHS Dialysis Inc.'s Certified 2014-2015 and 6/30/2016 Internal Financial Statements
BFA Attachment D	Pro-Forma Balance Sheet of USRC Forest Hills, LLC d/b/a U.S. Renal Care Forest Hills Dialysis
BFA Attachment E	Financial Summary 2014, 2015 & 6/30/16 - Affiliated New York's' Dialysis Centers.



**Project # 161097-E  
VillageCare Rehabilitation and Nursing Center**

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

**County:** New York  
**Acknowledged:** February 29, 2016

**Executive Summary**

**Description**

Village Care of New York, Inc. d/b/a VillageCare, a 501(c) (3) corporation, is seeking approval to become the active parent of Village Center for Care d/b/a VillageCare Rehabilitation and Nursing Center, a 105-bed Residential Health Care Facility (RHCF) located at 214 West Houston Street, New York (New York County). The RHCF also operates three off-site Adult Day Health Care Programs (ADHCP) as follows:

1. VillageCare ADHCP (60-slots) located at 644 Greenwich Street, New York, NY;
2. VillageCare AIDS ADHCP (50-slots) located at 121 West 20<sup>th</sup> Street, New York, NY; and
3. VillageCare AIDS ADHCP (40-slots) located at 80 Coffey Street, Brooklyn, NY.

In 2004, Village Care of New York, Inc. entered into an administrative service agreement with Village Center for Care to provide administrative, financial and management consulting services to the entity on an annual fee schedule basis. There will be no change to this agreement upon approval of this application. Village Care of New York, Inc. has been a passive parent and sole corporate member of Village Center for Care since March of 1997. Village Care of New York, Inc. will have the authority to make decisions for its affiliates as stated in its certificate of incorporation and bylaws. The board of directors will consist of people from the community and the CEO/President of Village Care.

Village Care of New York, Inc. will incur no additional cost or expense in serving as active parent and will collect no additional revenue from Village Center for Care.

As active parent and co-operator, Village Care of New York, Inc. will have the power and authority to make decisions for its affiliates as stated in its certificate of incorporation and bylaws, and the active parent powers as described in 10 NYCRR 405.1(c) as follows:

- appointment or dismissal of Village Center for Care management level employees and medical staff, except the election or removal of corporate officers by the members of a not-for-profit corporation;
- approval of Village Center for Care operating and capital budgets;
- adoption or approval of Village Center for Care operating policies and procedures;
- approval of certificate of need applications filed by or on behalf of Village Center for Care;
- approval of Village Center for Care debt necessary to finance the cost of compliance with operational or physical plant standards required by law;
- approval of Village Center for Care contracts for management or for clinical services; and
- approval of settlements of administrative proceedings or litigation to which the Village Center for Care is party, except approval by the members of a not-for-profit corporation of settlements of litigation that exceed insurance coverage or any applicable self-insurance fund.

Village Care of New York, Inc.'s exercise of powers will allow the following for Village Center for Care providers:

- Formulate consistent corporate policies and procedures across the system;
- Ensure a consistent approach to regulatory compliance, standards of care, and medical staff credentialing;
- Organize the network providers into an efficient and accessible continuum of care responsive to community needs;
- Collaborate in areas designed to conserve resources, such as joint purchasing;
- Facilitate clinical integration and the use of best practices;
- Share resources; and
- Reflect common mission, philosophy, values and purposes.

BFA Attachment A presents the organizational chart of Village Care of New York, Inc. post-closing.

OPCHSM Recommendation  
Contingent Approval

#### Need Summary

There will be no changes to beds or services as a result of this project. VillageCare Rehabilitation and Nursing Center's occupancy was 95.9% in 2011, 96.5% in 2012, 96.1% in 2013 and 96.3% in 2014.

#### Program Summary

The governing boards of both Village Center for Care and VillageCare of New York are identical. No negative information has been received concerning the character and competence of the board members or related facilities. No changes in the program or physical environment are proposed in this application. There is an administrative services agreement between Village Care New York and Village Center for Care.

#### Financial Summary

There are no project costs, working capital requirements or budgets 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 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)
2. 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)
3. 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)
4. Submission of a photocopy of an executed and completed facility lease agreement, acceptable to the Department. [CSL]
5. Submission of a photocopy of all documents establishing the new active parent of the Applicant, which are acceptable to the Department. [CSL]
6. Submission of a photocopy of the applicant's executed, amended and completed by-laws, which is acceptable to the Department. [CSL]
7. Submission of a photocopy of VillageCare of New York executed and amended by-laws, which is acceptable to the Department. [CSL]
8. Submission of a photocopy of the consulting and administrative services 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

**December 8, 2016**

# Need Analysis

## Background

VillageCare of New York seeks approval to be established as the active parent of Village Center for Care d/b/a VillageCare Rehabilitation and Nursing Center, a 105-bed Article 28 residential health care facility, located at 214 West Houston Street, New York, 10014, in New York County.

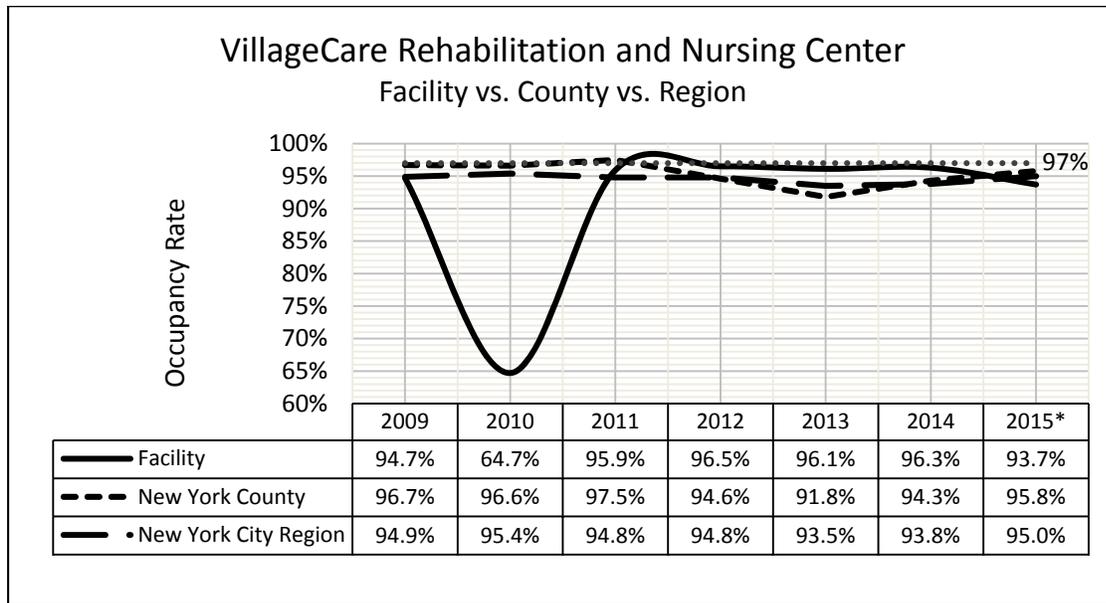
## Analysis

The current need methodology shows a need for 9,482 beds in the New York City Region as indicated in the following table:

### RHCF Need – New York City Region

2016 Projected Need	51,071
Current Beds	41,769
Beds Under Construction	-180
Total Resources	41,589
Unmet Need	9,482

The overall 2014 occupancy for New York County and the New York City Region is 94.3% and 93.8%, respectively, as indicated in the following chart:



\*unaudited; facility reported data

## 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.

VillageCare Rehabilitation and Nursing Center's Medicaid admissions of 7.3% and 6.2% for 2013 and 2014, respectively, did not exceed New York County 75% rates of 19.3% and 18.0% in 2013 and 2014, respectively. As a contingency and condition of approval, Village Care will be required to submit a plan to enhance access to Medicaid residents, commit to achieving the required proportion of Medicaid residents, and submit annual reports on the progress.

**Conclusion**

Designation as an active parent and co-operator is expected to enhance Village Care of New York, Inc. facilities and contribute to a greater marketing presence for the Corporation and its providers.

**Recommendation**

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

<b>Program Analysis</b>
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**Facility Information**

	Existing	Proposed
Facility Name	VillageCare Rehabilitation and Nursing Center	Same
Address	214 West Houston Street New York, New York 10014	Same
RHCF Capacity	105	Same
ADHC Program Capacity	1. VillageCare ADHCP (60-slots) located at 644 Greenwich Street, New York; 2. VillageCare AIDS ADHCP (50-slots) located at 121 West 20 <sup>th</sup> Street, New York; and 3. VillageCare AIDS ADHCP (40-slots) located at 80 Coffey Street, Brooklyn.	Same
Type of Operator	Not for Profit Corporation	Same
Class of Operator	Voluntary	Same
Operator	Village Center for Care	Village Center for Care  <u>Active Parent</u> Village Care of New York  <u>Board</u> Emma DeVito – President and CEO David H. Sidwell – Chairman Daniel Fox, PhD – Vice Chairman/Secretary Patricia M Owens – Treasurer Eleanor S. Applewhaite John W. Behre, Jr Lynne P. Brown, PhD Elizabeth Margaritis Butson Mary Caracappa Lisa M. Coleman Gail Donovan Rev. James J. Gardiner Glenna Michaels Leroy Sharer Richard Walgren

## Character and Competence - Background

### Facilities Reviewed

Village Center for Care d/b/a VillageCare Home Care	06/2006 to present
VillageCare Rehabilitation and Nursing Center	06/2006 to present
VillageCareMax Managed Long Term Care Plan	06/2012 to present
Fully Integrated Dual Advantage Plan (FIDA)	06/2012 to present
Village Care Plus (LHCSA)	06/2006 to present
Village Care at 46 and Ten	06/2006 to present

### Individual Background Review

The governing bodies of both Village Center for Care and VillageCare of New York are identical and consist of the following members of the Board of Directors.

**Emma DeVito** is a licensed New York State nursing home administrator in good standing. She is currently the Chief Executive Officer of VillageCare Health Care system and Chief Operating Officer / Executive Vice President of Village Center of New York. Ms. DeVito concurrently lists employment as President and Chief Executive Officer of Village Center for Care, Village Care Plus, and Village Housing Development Fund Corp. since 1991. Ms. DeVito has been President and Chief Executive Officer of VillageCareMax since it opened in 2012. Ms. DeVito discloses dual board memberships in Village Center for Care and VillageCare of New York since 2004.

**Daniel Fox, Ph D.** served as president and Chief Executive Officer of Milbank Memorial Fund from 1990, until his retirement in 2007. Mr. Fox currently serves as the Vice Chair and Board Secretary. Mr. Fox discloses dual board memberships in Village Center for Care and VillageCare of New York since 1993.

**Patricia M. Owens** discloses that she is self-employed as a consultant for health care disability programs and policies. Ms. Owens discloses dual board memberships in Village Center for Care and VillageCare of New York since 1992.

**David H. Sidwell** reports that he retired in 2007 from Morgan Stanley, where he held the position of Chief Financial Officer. Mr. Sidwell discloses he is a director of the National Council of Aging and dual board memberships in Village Center for Care and VillageCare of New York since 1998.

**Eleanor Applewhaite** reports that she retired in 2004 from Educational Broadcasting Corporation. Ms. Applewhaite is an attorney in good standing. Ms. Applewhite discloses dual board membership in Village Center for Care and VillageCare of New York since 2007.

**John W. Behre, Jr** is an attorney in good standing and practices at JDF. Mr Behre discloses dual board membership in Village Center for Care and VillageCare of New York since 2010.

**Lynne P. Brown** reports that she has been employed at New York University since 1982 in the areas of public affairs, government relations, and event planning. Ms. Brown discloses dual board memberships in Village Center for Care and VillageCare of New York since 2014.

**Elizabeth M. Butson** reports that she has been retired since 1992. Ms. Butson discloses dual board memberships in Village Center for Care and VillageCare of New York since 2007.

**Mary Caracappa** is a certified public accountant in good standing. Ms. Caracappa reports employment at Morgan Stanley since 1986 where she holds the position of Managing Director of New Products. Ms. Caracappa discloses dual board memberships in Village Center for Care and VillageCare of New York since 2012.

**Lisa M. Coleman** lists current employment as a Fund Manager at JP Morgan Asset Management. Ms. Coleman discloses dual board memberships in Village Center for Care and VillageCare of New York since 2014.

**Gail Donovan** reports that she was employed as Chief Hospitals Operation Officer at Mount Sinai Health System from September 2013 to January 2014. Prior to a merger between Mount Sinai and Continuum Health Partners, Ms. Donovan discloses that she had been employed at Continuum Health Partners for thirty years. The most recent title she held was Executive Vice President and Chief Operating Officer for hospital and corporate operations. Ms. Donovan discloses dual board memberships in Village Center for Care and VillageCare of New York since 2013.

**Reverend James J. Gardiner, SA** serves on the staff of Franciscan Monastery of the Holy Land since 2010 as well as an ordained member of the Friars of Atonement, Inc. religious order since 1960. He discloses that he is a board member of St. Pauls Center of New York since 2004, and dual board memberships in Village Center for Care and VillageCare of New York since 2005.

**Glenna Michaels** is the Founder and President of Michaels Associates which is a consulting group established to provide expert support in the design, development and financing of health delivery systems, since 1985. Ms. Michaels discloses dual board memberships in Village Center for Care and VillageCare of New York since 2005.

**Leroy Sharer, Jr., MD** is a licensed physician in NY and NJ in good standing. Dr. Sharer is employed as Director, Division of Neuropathology and Professor of Pathology at Rutgers New Jersey Medical School, since 1981. Dr. Sharer discloses dual board memberships in Village Center for Care and VillageCare of New York since 2009.

**Richard Walgren** is a NYS licensed real estate broker in good standing. Mr Walgren discloses that he has been employed as Executive Vice President Sales of Macklowe Properties, a real estate business, since May 2011. Mr. Walgren discloses dual board memberships in Village Center for Care and VillageCare of New York since 2012.

#### Character and Competence - Analysis

No negative information has been received concerning the character and competence of the above applicants identified as board members of both Village Center for Care and VillageCare of New York.

A review of the operations of the subject facility, VillageCare 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-09-008 for surveillance findings on 4/16/08 Deficiencies were found under 10 NYCRR 415.12 Quality of Care Highest Practicable Potential.

A review of the operations of the affiliated VillageCare certified home health agencies (CHHAs), and licensed home care services agencies (LHCSAs), for the time period identified above reveals that there were no enforcements.

A review of VillageCareMax Managed Long Term Care Plan (MLTCP), and fully integrated dual advantage plan (FIDA) since their inception reveals that there were no enforcements.

A review of Village Housing Development Fund which operates VillageCare at 46 and Ten (Assisted Living Program, including Enriched Housing and LHCSA) revealed the following:

- The facility was fined \$2,000 civil penalty pursuant to an enforcement action taken in July 2011 based on a March 2011 onsite inspection, citing violations in 486.5(a)(4)(iii) Endangerment, and 486.5(a)(4)(v) Endangerment.

## Conclusion

A review of all personal qualifying information indicates there is nothing in the background of the board members and officers of both Village Center for Care and Village Care of New York, Inc. to adversely affect their positions on the boards or as officers. All health care facilities are in current compliance with all rules and regulations. The individual background review indicates the proposed board members have met the standard for approval as set forth in Public Health Law §2801-a(3).

## Recommendation

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

# Financial Analysis

## Financial Analysis

There will be no change in authorized services, the number or type of RHCF beds or utilization as a result of approval of this project.

## Capability and Feasibility

The applicant has stated that upon approval of this application by the Public Health and Health Planning Council, Village Care of New York, Inc. will obtain consent for the proposed changes from necessary lenders, insurers and trustees. There will be no change in the daily operations of each health care facility, although each facility is expected to experience cost benefits from the active parent designation.

BFA Attachments B and C are the 2014-2015 financial summaries of Village Care of New York, Inc. and Subsidiaries and Village Center for Care, respectively. Review of the 2014-2015 certified financial statements of the two entities indicates they have maintained positive working capital and net assets positions, and maintained positive net income with the exception of Village Care of New York, Inc., which incurred an operating loss in 2014 related to one of their skilled nursing facility operations. The loss is non-recurring and the entity's 2015 financials show an operating gain of \$12.7 million.

BFA Attachments D and E are, respectively, the internal financial summaries of Village Care of New York, Inc. and Subsidiaries and Village Center for Care as of June 30, 2016, which indicates the entities maintained positive working capital, positive net assets positions and positive net income with the exception of Village Center for Care, which incurred an operating loss of \$741,201. The loss was related to their Certified Home Health Care Agency operations, which is in the planning process for closure. Village Care of New York, Inc. has provided documentation stating that they understand the importance of home care in the continuum of post-acute care services. As a result, while VillageCare Home Care will be discontinuing operations, a solid plan is in place to effectively partner with one or more operational CHHAs to maintain continuity of care and, over time, enhance the overall performance of VillageCare's post-acute offerings to their patients and community.

Based on the preceding, 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 Organizational Chart
- BFA Attachment B 2014-2015 Financial Summary of Village Care of New York, Inc. and Subsidiaries
- BFA Attachment C 2014-2015 Financial Summary of Village Center for Care
- BFA Attachment D June 30, 2016 Financial Summary of Village Care of New York, Inc. and Subsidiaries
- BFA Attachment E June 30, 2016 Financial Summary of Village Center for Care



Project # 161180-E

Nesconset ZJ 1 LLC d/b/a

Nesconset Center for Nursing and Rehabilitation

**Program:** Residential Health Care Facility

**County:** Suffolk

**Purpose:** Establishment

**Acknowledged:** March 22, 2016

## Executive Summary

### Description

This application amends and supersedes CON 142278. Nesconset ZJ 1 LLC d/b/a Nesconset Center for Nursing and Rehabilitation, a New York limited liability company, requests approval to be established as the operator of Nesconset Center for Nursing and Rehabilitation, a 240-bed, proprietary, Article 28 residential health care facility (RHCF) located at 100 Southern Boulevard, Nesconset (Suffolk County). The RHCF operates two off-site Adult Day Health Care Programs (ADHCPs) in Suffolk County which are part of the application: a 90-registrant ADHCP located at 575 Clayton Street in Central Islip and a 75-registrant ADHCP located at 45 Rocky Point Road in Middle Island. Nesconset Acquisition, LLC currently operates the facility. As part of this application there will be a reduction of 12 RHCF beds, bringing the total certified beds down to 228. There will be no change in services provided.

On September 18, 2014, Nesconset Acquisition, LLC entered into an Asset Purchase Agreement (APA) with Nesconset ZJ 1 LLC for the sale and acquisition of the operating interests of the RHCF and the two ADHCPs upon approval by the Public Health and Health Planning Council (PHHPC). Concurrently, Nesconset NC Realty, LLC, the current RHCF real property owner, entered into a Contract of Sale (COS) with Nesconset ZJ Realty 1 LLC for the sale and acquisition of the real property interest of the skilled nursing facility. The applicant will lease the RHCF premises from Nesconset ZJ Realty 1 LLC and enter into an Assignment and Assumption Agreement to transfer goodwill and

leasehold improvements to Nesconset ZJ Realty 1 LLC in exchange for the assumption of liabilities related to the acquisition of the operating interest. There is a relationship between Nesconset ZJ 1 LLC and Nesconset ZJ Realty 1 LLC in that the entities have several members in common.

Concurrent with the above APA and COS transactions, the current ADHCP real property owners, Islip DC Realty, LLC (Central Islip site) and MDDC Realty, LLC (Middle Island site), entered into Contracts of Sale with Central Island Realty 1 LLC and Middle Island Realty 1 LLC, respectively, for the sale and acquisition of the real property associated with the ADHCP sites. The applicant will lease the ADHCP premises from Central Island Realty 1 LLC and Middle Island Realty 1 LLC. There is a relationship between Nesconset ZJ 1 LLC, Central Island Realty 1 LLC and Middle Island Realty 1 LLC in that the entities have several members in common.

The closing of the RHCF and ADHCP real property COSs will be concurrent with the closing of the APA upon approval of this application by the PHHPC.

Ownership of the operations before and after the requested change is as follows:

<u>Current Operator</u>	
Nesconset Acquisition LLC	
<u>Members</u>	<u>%</u>
Robert Heppenheimer	33.34%
Anupadevi Lamba	33.33%
Smita Lodha	33.33%

<u>Proposed Operator</u>	
Nesconset ZJ 1 LLC	
<u>Members</u>	<u>%</u>
<b>Nesconset ZJ 1 Holding, LLC</b>	<b>51%</b>
Zipporah Farkas	(50%)
Joseph Schlanger	(50%)
<b>Nesconset Investors, LLC</b>	<b>49%</b>
Leslie Rieder	(40%)
Jonah Jay Lobell	(50%)
Samuel Rieder	(10%)

Concurrently under review, the applicant members of Nesconset ZJ 1 LLC are seeking approval to acquire the operating and realty interests in Hilaire Rehab and Nursing (CON 161181).

OPCHSM Recommendation  
Contingent Approval

Need Summary

Occupancy as of June 1, 2016 was 94.6%. With the reduction of twelve beds, occupancy is expected to reach the Department's planning optimum.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations.

Financial Summary

Nesconset ZJ 1 LLC will acquire the operating assets of the RHCF and ADHCPs for \$6,000,000, which will be funded as follows: \$1,160,000 from members' equity with the remaining \$4,840,000 to be assumed by Nesconset ZJ Realty 1 LLC, the proposed real property owner.

Nesconset ZJ Realty 1 LLC will purchase the real property for \$21,950,000. The realty entity will fund the \$26,790,000 total amount required to acquire the real property and assume Nesconset ZJ 1 LLC's debt, as follows: \$2,990,000 from members' equity and a \$23,800,000 loan with a 25-year term, self-amortizing, interest at 30 Day LIBOR plus 7.15% subject to a LIBOR rate floor of 0.5%. Central Island Realty 1 LLC will purchase the real property for one of the ADHCPs for \$5,400,000 funded as follows: \$900,000 from members' equity and a \$4,500,000 loan with a 25-year term, self-amortizing, interest at 30 Day LIBOR plus 7.15% subject to a LIBOR rate floor of 0.5%. Middle Island Realty 1 LLC will purchase the other ADHCP real property for \$5,000,000 funded as follows: \$800,000 from members' equity and a \$4,200,000 loan with a 25-year term, self-amortizing, interest at 30 Day LIBOR plus 7.15% subject to LIBOR rate floor of 0.5%. The 30 Day LIBOR rate was 0.534% as of October 24, 2016.

There are no project costs associated with this proposal. The projected budget is as follows:

	<u>RHCF</u>	<u>ADHCP</u>	<u>Total</u>
Revenues	\$28,275,500	\$7,731,300	\$36,006,800
<u>Expenses</u>	<u>\$30,264,200</u>	<u>\$3,918,200</u>	<u>\$34,182,400</u>
Gain/(Loss)	(\$1,988,700)	\$3,813,100	\$1,824,400

## 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 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)
2. 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)
3. 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)
4. Submission of an executed assignment and assumption agreement associated with the asset purchase agreement, acceptable to the Department of Health. (BFA)
5. Submission of an executed working capital loan commitment, acceptable to the Department of Health. (BFA)
6. Submission of an executed real property loan commitment associated with the purchase of 45 Rocky Point Road, Middle Island, acceptable to the Department of Health. (BFA)
7. Submission of an executed real property loan commitment associated with the purchase of 575 Clayton Street, Central Islip, acceptable to the Department of Health. (BFA)
8. Submission of an executed real property loan commitment associated with the purchase of 100 Southern Boulevard, Nesconset, acceptable to the Department of Health. (BFA)
9. Submission of a photocopy of the applicant's amended and executed Operating Agreement, acceptable to the Department. [CSL]
10. Submission of a photocopy of the applicant's dated and executed Certificate of Amendment of the Articles of Organization, acceptable to the Department. [CSL]
11. Submission of a photocopy of evidence of site control, acceptable to the Department. [CSL]
12. Submission of photocopy of an amended and executed Asset Purchase Agreement, acceptable to the Department. [CSL]

13. Submission of a photocopy of the executed and amended Operating Agreement of Nesconset Investors, LLC, acceptable to the Department. [CSL]
14. Submission of a photocopy of Nesconset Investors LLC application for Authority to Do Business in the State of New York, acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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. 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

**December 8, 2016**

# Need Analysis

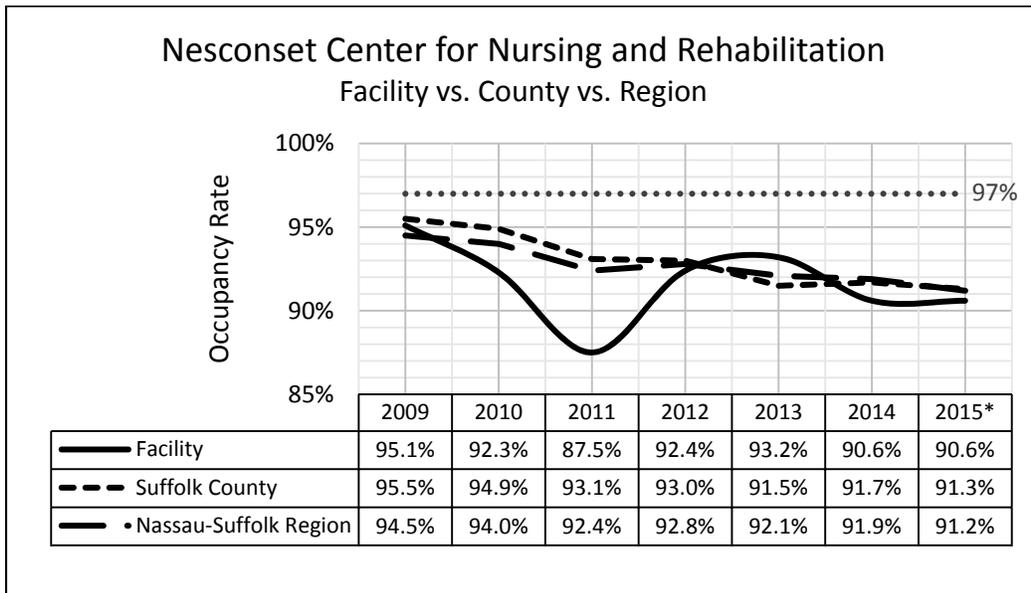
## Project Description

Nesconset ZJ 1, LLC, seeks approval to become the established operator of the Nesconset Center for Nursing and Rehabilitation, a 240-bed Article 28 residential health care facility (RHCF), located at 100 Southern Boulevard, Nesconset, Suffolk County. Upon approval, the facility will reduce its total bed capacity by 12 RHCF beds, for a certified capacity of 228 RHCF beds.

## Analysis

There is currently a need for 2,003 beds in the Nassau-Suffolk Region as indicated in the table below:

<b>2016 Projected Need</b>	16,962
<b>Current Beds</b>	15,352
<b>Beds Under Construction</b>	-393
<b>Total Resources</b>	14,959
<b>Unmet Need</b>	2,003



\*unaudited; facility reported data

The overall 2014 occupancy for the Nassau-Suffolk Region is 91.9% and has been declining over the last six years.

Occupancy at Nesconset Center as of June 1, 2016 was 94.6%. With the reduction of 12 certified beds, occupancy is expected to reach the Department's planning optimum. In addition to the 12-bed reduction, the applicant intends to increase occupancy in the following ways:

- Implement an outreach/education program with Senior Planning Services to admit Medicaid-pending patients. The proposed owner has used Senior Planning Services in partnership with other facilities under their operation and, as a result, Medicaid-pending admissions comprise over 60% of annual long-term care admissions. Acceptance of Medicaid-pending patients may reduce placement of these residents outside their preferred service area.
- Change the model of care to one that directly supports DSRIP program goals and community needs, including: reduce potentially preventable hospital admissions/readmissions through the implementation of the INTERACT model; create a Congestive Heart Failure (CHF) Program as a subset of the INTERACT model to provide daily monitoring, early identification of instability and intervention to avoid hospitalization of CHF patients; provide transfusion and IV therapy services; integrate Palliative Care into the care model; and continue a pulmonary rehabilitation program.

- Design and implement cultural and ethnic programs for the growing Asian Indian, Korean, Chinese, Pakistani, Arab, West Indian and sub-Saharan African populations in the community. The program will develop small ethnic neighborhoods within the facility to address specific cultural, linguistic and spiritual practices and needs of residents. The proposed owner implemented a similar program in New Jersey which increased RHCf facility admissions by 11 new residents in one month.

**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.

Nesconset Center for Nursing and Rehabilitation’s Medicaid admissions for 2013 and 2014 are 19.0% and 13.9%, respectively. This facility did not exceed the Suffolk County 75% Medicaid admission threshold rates in 2013 and 2014 of 19.4% and 16.7%, respectively. Thus the facility will be subject to corresponding contingencies upon approval.

**Conclusion**

Contingent approval of this application will result in maintaining a needed resource for the community.

**Recommendation**

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

**Program Analysis**

**Facility Information**

	<b>Existing</b>	<b>Proposed</b>
Facility Name	Nesconset Center for Nursing and Rehabilitation	Nesconset Center for Nursing and Rehabilitation
Address	100 Southern Boulevard, Nesconset	Same
RHCf Capacity	240	228
ADHC Capacity	N/A	Same
Type of Operator	Limited Liability Company	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	Nesconset Acquisition, LLC	Nesconset ZJ 1 LLC <u>Members</u> <b>Nesconset ZJ 1 Holding, LLC 51%</b> Zipporah Farkas (50%) Joseph Schlanger (50%) <b>Nesconset Investors, LLC 49%</b> *Jonah Lobell (50%) Leslie Rieder (40%) Samuel J. Rieder (10%)  * Managing Member

## Character and Competence - Background

### Facilities Reviewed

#### New York

Newfane Rehabilitation & Health Care Center 12/2015 to present

#### Massachusetts Nursing Homes

The Reservoir Center for Health and Rehabilitation 06/2012 to present

Colony Center for Health and Rehabilitation 06/2012 to present

Country Center for Health and Rehabilitation 06/2012 to present

Eliot Center for Health and Rehabilitation 06/2012 to present

Newton Wellesley Center for Alzheimer's Care 06/2012 to present

Sachem Center for Health and Rehabilitation 06/2012 to present

#### Maine Nursing Homes

Augusta Center for Health and Rehabilitation 06/2012 to present

Brentwood Nursing Center for Health and Rehabilitation 06/2012 to present

Brewer Center for Health and Rehabilitation 06/2012 to present

Eastside Center for Health and Rehabilitation 06/2012 to present

Kennebunk Center for Health and Rehabilitation 06/2012 to present

Norway Center for Health and Rehabilitation 06/2012 to present

Winship Green Center for Health and Rehabilitation 06/2012 to present

#### New Hampshire Nursing Homes

Dover Center for Health and Rehabilitation 06/2012 to present

#### New Jersey Nursing Home

Warren Haven Nursing Home 09/2015 to present

### Individual Background Review

**Zipporah Farkas** has no previous nursing home experience or ownership interests. Ms. Farkas has a high school diploma and lists no employment history, however she lists volunteer work which is not nursing home related and therefore not being disclosed in this report.

**Joseph Schlanger** lists his employment as the Executive Director of Warren Haven Nursing Home in Oxford, NJ, since September 2015. Previously, Mr. Schlanger was the Executive Director at Chapin Hill at Red Bank, a nursing home located in Red Bank, New Jersey. He has held this position for over seven years. He has received a Bachelor in Hebrew letters degree. Mr. Schlanger discloses ownership interest in the following health facility:

Warren Haven Nursing Home (NJ) 9/2015 to present

**Jonah Lobell** lists his employment as the President of Meridian Capital Group, LLC, a mortgage company located in New York, New York. He was previously a licensed stockbroker (Series 7), with license expiring in 2012. Mr. Lobell also continues to consult for his previous employer, Paramount Bio Sciences, a venture capital and drug development firm located in New York, New York. He has received a Bachelor of Arts degree and a Juris Doctor degree. Jonah Lobell discloses the following ownership interests in health facilities:

Newfane Rehabilitation & Health Care Center (NY) 12/2015 to present

The Reservoir Center for Health & Rehabilitation (MA) 06/2012 to present

Colony Center for Health and Rehabilitation (MA) 06/2012 to present

Country Center for Health and Rehabilitation (MA) 06/2012 to present

Eliot Center for Health and Rehabilitation (MA) 06/2012 to present

Newton Wellesley Center for Alzheimer's Care (MA) 06/2012 to present

Sachem Center for Health and Rehabilitation (MA) 06/2012 to present

Augusta Center for Health and Rehabilitation (ME) 06/2012 to present

Brentwood Nursing Center for Health and Rehabilitation (ME) 06/2012 to present

Brewer Center for Health and Rehabilitation (ME) 06/2012 to present

Eastside Center for Health and Rehabilitation (ME)	06/2012 to present
Kennebunk Center for Health and Rehabilitation (ME)	06/2012 to present
Norway Center for Health and Rehabilitation (ME)	06/2012 to present
Winship Green Center for Health and Rehabilitation (ME)	06/2012 to present
Dover Center for Health and Rehabilitation (NH)	06/2012 to present

**Leslie Rieder** lists his employment as Principal in Rieder Communities, a real estate investment company located in New York, New York. He lists a Bachelor of Science degree. Mr. Rieder discloses no ownership interest in health facilities.

**Samuel J. Rieder** lists his employment as the Director of Acquisitions at Rieder Communities, a real estate investment company located in New York, New York. He indicates he has a Certificate in Real Estate and a Bachelor in Talmudic Law degree. Mr. Rieder discloses no ownership interest in health facilities.

#### Character and Competence - Analysis

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

The health facility experience for the proposed operators is based primarily in non-New York State facilities. The Department's access to information for non-New York State facilities is limited and relies on disclosure by the applicant, interviews and documentation from non-New York State regulatory entities (when available), and review of publically available information including Medicare.gov (Nursing Home Compare). The information presented is assumed to be accurate and complete based on assurances and attestations provided by the applicant.

A review of Medicare.gov (Nursing Home Compare), as well as affidavit submitted by the applicant for The Reservoir Center for Health and Rehabilitation, Country Center for Health and Rehabilitation, Eliot Center for Health and Rehabilitation, Newton Wellesley Center for Alzheimer's Care, and Sachem Center for Health and Rehabilitation in the state of Massachusetts for the periods identified above did not disclose enforcement actions against the facilities.

The applicant disclosed that for Colony Center for Health and Rehabilitation (MA) there was an enforcement dated 9/18/2014 under 483.20(k)(3)(ii) – Qualifications of Facility Staff (F0282) & 483.25(h) – Accidents and Supervision (F0323) with a scope and severity of G. The fine was \$3,000, which has been paid. The facility is currently in compliance.

Information received from the State of Maine for Augusta Center for Health and Rehabilitation, Brewer Center for Health and Rehabilitation, Kennebunk Center for Health and Rehabilitation, Norway Center for Health and Rehabilitation, and Winship Green Center for Health and Rehabilitation for the periods identified above did not disclose enforcement actions against the facilities.

The applicant disclosed that Brentwood Nursing Center for Health and Rehabilitation (ME) there was an enforcement dated 2/13/2014 under 483.25 – Quality of Care (F0309) with a scope and severity of G. The fine was \$2,500 which has been paid, and the facility is currently in compliance.

The applicant disclosed that for Eastside Center for Health and Rehabilitation (ME) there was an enforcement dated 2/29/2016 under 483.25(h) – Accidents and Supervision (F0323) with a scope and severity of G & 483.25(c) – Pressure Ulcers (F0314) which was an immediate jeopardy. The fine was \$13,650 which has been paid at a reduction of 35%, and the facility is currently in compliance.

Information was received from the State of New Hampshire stating that Dover Center for Health and Rehabilitation did not have any enforcement actions for the periods identified above.

A review of Medicare.gov (Nursing Home Compare), as well as affidavit submitted by the applicant for Warren Haven Nursing Home in New Jersey for the periods identified above did not disclose enforcement actions against the facility.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
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**New York**

Newfane Rehab and Health Care Center	**	**	****
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**Massachusetts**

Reservoir Center for Health & Rehabilitation, The	**	**	**
Colony Center for Health & Rehabilitation	***	**	*****
Country Center for Health & Rehabilitation	***	**	**
Eliot Center for Health & Rehabilitation	*	*	***
Newton Wellesley Center for Alzheimer's Care	*****	****	*****
Sachem Center for Health & Rehabilitation	**	*	*****

**Maine**

Augusta Center for Health & Rehabilitation, LLC	*****	***	*****
Brentwood Center for Health & Rehabilitation, LLC	***	**	****
Brewer Center for Health & Rehabilitation, LLC	****	***	***
Eastside Center for Health & Rehabilitation, LLC	**	*	*****
Kennebunk Center for Health & Rehabilitation, LLC	**	*	*****
Norway Center for Health & Rehabilitation, LLC	*****	*****	****
Winship Green Center for Health & Rehab, LLC	****	****	****

**New Hampshire**

Dover Center for Health & Rehabilitation	*	*	****
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**New Jersey**

Warren Haven Rehab and Nursing Center	*	**	**
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Project Review

This application proposes to establish Nesconset ZJ 1, LLC as the operator of Nesconset Center for Nursing and Rehabilitation. Nesconset ZJ 1, LLC is an existing New York State limited liability company whose members include two newly formed New York State limited liability companies, Nesconset ZJ 1 Holding, LLC and Nesconset Investors, LLC. Nesconset ZJ 1 Holding, LLC and Nesconset Investors, LLC are not known to be the operator of record for any health facility, or a member of any health care related operating entities.

No administrative services or consulting agreements are proposed in this application. A 12-bed decertification is included on this application. 12 two bedded rooms will be converted to one bedded rooms to be used for short term rehabilitation. All of the rooms subject to bed reduction are located in the same wing of the nursing home.

## Conclusion

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in current compliance with all rules and regulations. The individual background review indicates the proposed board members have met the standard for approval as set forth in Public Health Law §2801-a(3).

## Recommendation

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

# Financial Analysis

## Asset Purchase Agreement

The applicant has submitted an executed asset purchase agreement to acquire the operating interests of the RHCF and the ADHCPs. The agreement will become effectuated upon PHHPC approval of this CON application. The terms of the agreement are summarized below:

Date:	September 18, 2014
Seller:	Nesconset Acquisition LLC
Purchaser:	Nesconset ZJ 1 LLC
Assets Transferred:	All rights, title and interest in the business assets lien free. The assets include: the business and operation of a 240-bed nursing home and adult day health care programs at 575 Clayton Street, Central Islip, New York 11722 and 45 Rocky Point Road, Middle Island, New York 11953; leases, inventory, supplies, and other articles of personal property; all Assumed Contracts; resident funds held in trust; any and all trade names, logos, trademarks and service marks; all security deposits and prepayments for future services; all menus, policies and procedures manuals and computer software; all telephone numbers, telefax numbers and domain names; copies of all financial books and records relating to the Facility; all resident/patient records; all employee and payroll records; Seller's Medicare and Medicaid provider agreements and provider numbers; goodwill and licenses and permits.
Excluded Assets:	House on the Middle Island property, Shares of Agewell MLTC, Shares of NYHCA, ADL Server, retroactive rates increases for services prior to closing date, accounts receivable prior to the closing date, securities, real estate tax funds prior to closing date and the assets in the 401(k) and deferred compensation plans.
Assumed Liabilities:	Those occurring after the closing date.
Purchase Price:	\$6,000,000
Payment:	\$300,000 contract deposit \$5,700,000 due at closing

Upon closing, the applicant will retain the supplies on hand, property and equipment and nursing home license, and will transfer the remaining assets to Nesconset ZJ Realty 1 LLC, the proposed real property owner.

The purchase price is proposed to be satisfied as follows:

Equity (Nesconset ZJ 1 LLC Members)	\$1,160,000
Assumed Liability (Nesconset Realty ZJ 1 LLC)	<u>\$4,840,000</u>
Total	\$6,000,000

BFA Attachment A is the net worth summary for the proposed owners, which shows 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. As of October 24, 2016, the facility had outstanding Medicaid liabilities totaling \$19,920.46.

#### Assignment and Assumption Agreement

The applicant has submitted a proposed Assignment and Assumption Agreement for the assignment of the assets associated with the APA, as shown below:

Assignor:	Nesconset ZJ1 LLC
Assignee:	Nesconset ZJ Realty 1 LLC
Assets Transferred:	Goodwill; leasehold improvements; furniture, fixtures, equipment of Nesconset Center for Nursing and Rehabilitation, except those used in the operation of the facility.
Excluded Assets:	All assets not specified above
Considerations:	Liabilities remaining after equity contributions made by members toward the Purchase Price as defined in the Asset Purchase Agreement.

#### Purchase Agreement for the Real Property

The applicant has submitted executed real estate purchase agreements for the RHCF and ADHCP real property acquisitions. The terms are summarized below:

Date:	September 18, 2014
Seller/Realty (RHCF):	Nesconset NC Realty, LLC
Purchaser Realty:	Nesconset ZJ Realty 1 LLC
Asset Transferred Realty:	100 Southern Boulevard, Nesconset, New York 11767
Purchase Price:	\$21,950,000
Payment of Purchase Price:	\$1,200,000 deposit paid on date of agreement \$20,750,000 due two days prior to closing

Date:	September 18, 2014
Seller/Realty (ADHCP):	MDDC Realty, LLC
Purchaser Realty:	Middle Island Realty 1 LLC
Asset Transferred Realty:	45 Rocky Point Road, Middle Island, New York 11953
Purchase Price:	\$5,000,000
Payment of Purchase Price:	\$280,000 deposit paid on date of agreement \$4,720,000 due two days prior to closing

Date:	September 18, 2014
Seller/Realty (ADHCP):	Islip DC Realty, LLC
Purchaser Realty:	Central Island Realty 1 LLC
Asset Transferred Realty:	575 Clayton Street, Central Islip, New York 11722
Purchase Price:	\$5,400,000
Payment of Purchase Price:	\$300,000 deposit paid on date of agreement \$5,100,000 due two days prior to closing

The proposed financing for the RHCF realty agreement, inclusive of the assumption of the \$4,840,000 liability related to the acquisition of the operating entity, is as follows:

Equity (Nesconset ZJ Realty 1 LLC Members)	\$2,990,000
Loan (25 years, self-amortizing, 30 Day LIBOR (floor 0.5%) + 7.15%)	<u>\$23,800,000</u>
Total	\$26,790,000

The proposed financing for the Middle Island ADHCP realty agreement is as follows:

Equity (Middle Island Realty 1 LLC Members)	\$800,000
Loan (25 years, self-amortizing, 30 Day LIBOR (floor 0.5%) + 7.15%)	<u>\$4,200,000</u>
Total	\$5,000,000

The proposed financing for the Central Islip ADHCP realty agreement is as follows:

Equity (Central Island Realty 1 LLC Members)	\$900,000
Loan (25 years, self-amortizing, 30 Day LIBOR (floor 0.5%) + 7.15%)	<u>\$4,500,000</u>
Total	\$5,400,000

BFA Attachment A is the members' net worth summaries, which reveals sufficient resources to meet the equity requirements. Letters of interest for the respective loans have been provided by Formation Lending Group to finance the purchases at the above stated terms.

#### Lease Agreement

The applicant has submitted executed lease agreements to lease the RHCF and ADHCP real property, as summarized below:

Date:	December 31, 2014
Landlord:	Nesconset ZJ Realty 1, LLC
Tenant:	Nesconset ZJ 1 LLC
Premises:	100 Southern Boulevard, Nesconset, NY 11767, the parcel upon which the Nesconset ZJ1 LLC 240-bed skilled nursing facility sits
Term:	30 years from commencement
Rent:	\$3,095,054 per annum (\$257,921.17 per month)
Provisions:	Triple Net

Date:	December 31, 2014
Landlord:	Central Island Realty 1, LLC
Tenant:	Nesconset ZJ 1 LLC
Premises:	575 W. Lowell Ave a/k/a 575 Clayton Street, Central Islip, NY 11722, the parcel upon which a 90-registrant Adult Day Health Care Program known as Islip Adult Day Care Center sits
Term:	30 years from commencement
Rent:	\$556,352 per annum (\$46,362.67 per month)
Provisions:	Triple Net

Date:	December 31, 2014
Landlord:	Middle Island Realty 1, LLC
Tenant:	Nesconset ZJ 1 LLC
Premises:	45 Rocky Point Road, Middle Island, NY 11953, the parcel upon which a 75-registrant Adult Day Health Care Program known as Middle Island Adult Day Health Care Program sits
Term:	30 years from commencement
Rent:	\$519,157 per annum (\$43,263.08 per month)
Provisions:	Triple Net

The lease arrangement is a non-arm's length agreement. There is a relationship between the proposed operator and the proposed real property owners in that they share four members in common.

## Operating Budget

The applicant has provided the current year (2015) budget at 240 beds, and their budget at 228 beds, in 2016 dollars, for the first year of operation subsequent to the change in ownership. The budget is summarized below:

<b>RHCF</b>	<u>Current Year (240 Beds)</u>		<u>Year One (228 Beds)</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<b>Revenues</b>				
Commercial	\$373.97	\$330,964	\$454.39	\$2,791,300
Medicare	\$572.52	\$5,978,286	\$657.46	\$7,328,700
Medicaid	\$283.80	\$18,523,872	\$276.36	\$15,599,900
Private Pay	\$416.56	\$1,321,752	\$454.39	\$2,417,800
Other Operating Revenue*		<u>\$360,441</u>		<u>\$137,800</u>
<b>Total Revenues</b>		<b>\$26,515,315</b>		<b>\$28,275,500</b>
<b>Expenses</b>				
Operating	\$355.32	\$28,344,085	\$341.50	\$26,998,300
Capital	<u>\$25.42</u>	<u>\$2,027,771</u>	<u>\$41.31</u>	<u>\$3,265,900</u>
<b>Total Expenses</b>	<b>\$380.74</b>	<b>\$30,371,856</b>	<b>\$382.81</b>	<b>\$30,264,200</b>
<b>Net Income</b>		<b><u>(\$3,856,541)</u></b>		<b><u>(\$1,988,700)</u></b>
Utilization (patient days)		79,771		79,059
Occupancy		91.06%		95.00%

\* Cafeteria, gift shop, discounts/rebates, TV & radio rentals, vending machine and medical record fees.

The following is noted with respect to the submitted budget:

- Revenue assumptions for Medicare, Private Pay and Commercial payors are based on the current operator's actual 2016 payment rates for the respective payors. The Medicaid rate is based on facility's 2015 Medicaid Regional Pricing rate with a 2.5% increase to project to rate year 2016.
- Expense assumptions are based on the historical experience of the facility, taking into consideration reductions to reflect the decertification of 12 RHCF beds and other cost containment measures.
- Expenses are expected to decline in Year One based on:
  - Reductions to salaries and benefits, purchased and contracted services and administrative costs related to the elimination of the Executive Director and Director of Human Services positions (reflected in the applicant's projected elimination of 13.8 FTEs in Year One);
  - Reduced legal fees; and
  - Reductions in laundry, housekeeping and patient food costs.
- Other revenue for cafeteria, gift shop, television and radio rentals, medical records fees and vending machine commissions were projected based on historical experience, adjusted to remove miscellaneous income and recovery of bad debts.
- Current Year (2015) occupancy is based on the facility's current 240 RHCF certified bed count. First Year occupancy is based on 228 certified beds, incorporating the decertification of 12 RHCF beds.
- The applicant believes anticipated program changes will support their participation in the Stony Brook University Hospital PPS and facilitate a transition to value based reimbursement.
- Utilization by payor source for the RHCF for the first year after the change in operator is as follows:

	<u>Current Year (240 Beds)</u>		<u>Year One (228 Beds)</u>	
	<u>Visits</u>	<u>%</u>	<u>Visits</u>	<u>%</u>
Commercial	885	1.11%	6,143	7.77%
Medicare	10,442	13.09%	11,147	14.10%
Medicaid	65,271	81.82%	56,448	71.40%
Private Pay	<u>3,173</u>	<u>3.98%</u>	<u>5,321</u>	<u>6.73%</u>
<b>Total</b>	<b>79,771</b>	<b>100%</b>	<b>79,059</b>	<b>100%</b>

The current year (2015) and first year operating budget for the ADHCPs is summarized as follows:

<u>ADHCP</u>	<u>Current Year</u>		<u>Year One</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid	\$189.23	\$8,150,611	\$157.61	\$7,468,900
Private Pay	\$189.79	\$124,121	\$214.91	\$262,400
Total	\$189.24	\$8,274,732	\$159.05	\$7,731,300
 <u>Expenses</u>				
	\$101.53	\$4,439,617	\$80.60	\$3,918,200
 Net Income		<u>\$3,835,115</u>		<u>\$3,813,100</u>
 Utilization (Visits)		43,726		48,610

- ADHCP projections reflect the combined expenses and revenues of the Central Islip and Middle Island sites.
- The projected ADHCP visits will be 97.49% Medicaid and 2.51% Private Pay in Year One.
- Maximum ADHCP visits are 54,340 based on a seven-day week with reduced weekend capacity. ADHCP utilization is projected at 89.46% in Year One.

The combined revenues and expenses during the current and first year for the RHCF and ADHCP services are as follows:

<u>Combined Budget</u>	<u>Current Year</u>	<u>First Year</u>
Revenues	\$34,790,047	\$36,006,800
Expenses	\$34,811,473	\$34,182,400
Gain/(Loss)	-\$21,426	\$1,824,400

The projected budget appears reasonable.

#### Capability and Feasibility

There are no project costs associated with this application. The purchase price for the operating interests in the RHCF and ADHCPs is \$6,000,000, which will be funded with \$1,160,000 from member's equity with liability for the remaining \$4,840,000 to be assumed by the proposed real property owner, Nesconset ZJ Realty 1 LLC. Concurrent with the closing of the APA, Nesconset ZJ Realty 1 LLC will purchase the RHCF real property for \$21,950,000 funded as follows: \$2,990,000 in members' equity along with a \$23,800,000 loan at the above stated terms (includes the assumption of the \$4,840,000 liability for the operating interest). Central Island Realty 1 LLC will purchase the Central Islip ADHCP's real property for \$5,400,000 funded with \$900,000 members' equity along with a \$4,500,000 loan at the above stated terms. Middle Island Realty 1 LLC will purchase the Middle Island ADHCP's real property for \$5,000,000 funded with \$800,000 members' equity and a \$4,200,000 loan at the terms stated above. BFA Attachment A is the members' net worth summaries, which shows sufficient liquid assets to complete the transactions.

The working capital requirements are estimated at \$5,697,067 based on two months of the first year expenses. The applicant indicated working capital would be satisfied in excess of the two-month requirement with \$3,100,000 in members' equity and a \$3,100,000 five-year term loan at 6.5% interest. The applicant submitted a letter of interest in regard to the financing. As referenced above, there are sufficient resources to satisfy the project's equity requirements.

The submitted budget projects net profit of \$1,824,400 in Year One after the change in ownership based in part on a \$629,073 reduction in expenses concurrent with the decertification of 12 RHCF beds. BFA Attachment D is Nesconset ZJ 1 LLC's pro forma balance sheet as of the first day of operation, which shows members' equity of \$4,260,000. As a result of the proposed Assignment and Assumption Agreement, leasehold improvements and goodwill are not included in the proposed operator's balance sheet.

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 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 NH revenues through the transition period. Suffolk County has transitioned to Medicaid Managed Care for new enrollees. The applicant states that Nesconset has entered into contracts with fourteen Managed Long Term Care plans in Suffolk County.

BFA Attachment C is the 2014-2016 financial summary of Nesconset Acquisition, LLC. As shown, the facility had an average negative working capital position of \$1,410,903, average positive net assets of \$2,662,933 and generated an average loss of \$876,301 for the period. The applicant indicated that the negative performance was due to excessive management and accounting fees, excessive salaries for select administrative, food service and custodial personnel, and excessive contract service costs. These expenses are being brought into line or will be eliminated with the change in operator. The ADHCP operations favorably impact the profitability the overall operations.

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.**

## Attachments

BFA Attachment A	Net Worth Summary for the members of Nesconset ZJ1 LLC
BFA Attachment B	Current and Proposed Owners of the real property
BFA Attachment C	Nesconset Acquisition, LLC 2014-2016 financial summary
BFA Attachment D	Pro Forma Balance Sheet for Nesconset ZJ1 LLC



Project # 161181-E
Huntington Acquisition 1, LLC d/b/a Hilaire Rehab & Nursing

Program: Residential Health Care Facility
Purpose: Establishment

County: Suffolk
Acknowledged: March 22, 2016

Executive Summary

Description

This application amends and supersedes CON 142279. Huntington Acquisition 1, LLC d/b/a Hilaire Rehab & Nursing, a New York limited liability company, requests approval to be established as the operator of Hilaire Rehab & Nursing, a 76-bed, proprietary, Article 28 residential health care facility (RHCF) located at 9 Hilaire Drive, Huntington (Suffolk County). The facility is currently operated by Hilaire Farm Skilled Living & Rehabilitation Center, LLC (Hilaire Farm). A separate entity, Huntington Realty 1, LLC, will acquire the real property. There will be no change in beds or services provided.

On September 18, 2014, Hilaire Farm entered into an Asset Purchase Agreement (APA) with Huntington Acquisition 1, LLC for the sale and acquisition of the operating interests of the RHCF. Concurrently, the realty owner, Skillaire, LLC, entered into a Real Estate Purchase Agreement (REPA) with Huntington Realty 1, 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 Huntington Acquisition 1, LLC and Huntington Realty 1, LLC in that the entities have several members in common. The applicant will lease the premises from Huntington Realty 1, LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator

Hilaire Farm Skilled Living & Rehabilitation Center, LLC

Table with 2 columns: Members, %
Robert Heppenheimer 33.34%
Anupadevi Lamba 33.33%
Ajay Lodha 33.33%

Proposed Operator

Huntington Acquisition 1, LLC
d/b/a Hilaire Rehab & Nursing

Table with 2 columns: Members, %
Huntington ZJ1 Holding LLC 51%
Zipporah Farkas (50%)
Joseph Schlanger (50%)
Nesconset Investors LLC 49%
Jonah Lobell (50%)
Leslie Rieder (40%)
Samuel J Rieder (10%)

At closing, Huntington Acquisition 1, LLC will enter into an Assignment and Assumption Agreement with Huntington Realty 1, LLC to transfer goodwill and leasehold improvements in exchange for Huntington Realty 1, LLC assuming the liabilities related to the acquisition of the operating interest. Huntington Acquisition 1, LLC will retain the operating license and equipment necessary to operate the facility, and Huntington Realty 1, LLC will assume the operator's mortgage liability at the time of closing.

Concurrently under review, the applicant members of Huntington Acquisition 1, LLC and the realty members of Huntington Realty 1, LLC are seeking approval to acquire the operating and realty interests, respectively, in Nesconset Center for Nursing and Rehabilitation (CON 161180).

OPCHSM Recommendation  
Contingent Approval

Need Summary

The change in ownership will not result in any change in beds or services. Hilaire's occupancy was 89.4% in 2012, 89.5% in 2013 and 86.3% in 2014. Occupancy as of May 4, 2016 is 78.9%.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations.

Financial Summary

Huntington Acquisition 1, LLC will acquire the RHC operating assets for \$1,900,000 funded with members' equity of \$610,000 and the remaining \$1,290,000 to be assumed by the proposed real property owner, Huntington Realty 1, LLC.

Huntington Realty 1, LLC will purchase the real property for \$5,750,000 and will fund the total \$7,040,000 required to acquire the real property and assume Huntington Acquisition 1, LLC's debt with \$540,000 from members' equity, and a loan for \$6,500,000 with a 25-year term, self-amortizing, interest at 30 Day LIBOR plus 7.15% subject to a LIBOR rate floor of 0.5%. The 30 Day Libor rate was 0.534% as of October 24, 2016. Formation Lending Group has provided a letter of interest. There are no project costs associated with this application. The projected budget is as follows:

	<u>Year One</u>
Revenues	\$9,940,500
Expenses	<u>\$9,827,500</u>
Net Income	\$113,000

## 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 assignment and assumption agreement associated with the asset purchase agreement, acceptable to the Department of Health. [BFA]
2. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
3. Submission of an executed real property loan commitment, 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]
8. Submission of a photocopy of Nesconset Investors, LLC's application Authority to Business in the State of New York, acceptable to the Department. [CSL]
9. Submission of a photocopy of the executed and amended Operating Agreement of Nesconset Investors, LLC, acceptable to the Department. [CSL]
10. Submission of an amended Operating Agreement for Huntington ZJ 1 Holding, LLC, acceptable to the Department. [CSL]
11. Submission of a photocopy of the amended and executed Certificate of Amendment of Articles of Organization of Huntington Acquisition 1, LLC, acceptable to the Department. [CSL]
12. Submission of a photocopy of evidence of site control, acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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. 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  
**December 8, 2016**

# Need Analysis

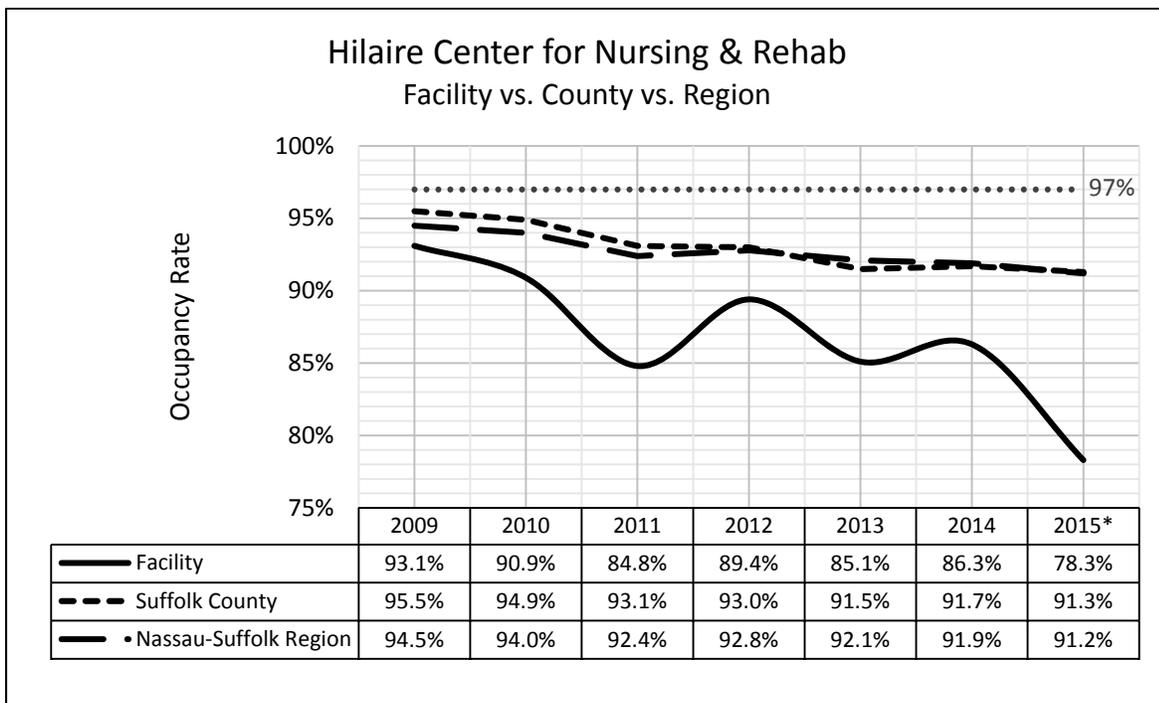
## Project Description

Huntington Acquisition 1, LLC, seeks approval to become the established operator of Hilaire Rehab & Nursing, a 76-bed, Article 28 residential health care facility (RHCF) located at 9 Hilaire Drive, Huntington, Suffolk County.

## Analysis

There is currently a need for 2,003 beds in the Nassau-Suffolk Region as indicated in the table below:

<b>2016 Projected Need</b>	16,962
<b>Current Beds</b>	15,352
<b>Beds Under Construction</b>	-393
<b>Total Resources</b>	14,959
<b>Unmet Need</b>	2,003



\*unaudited; facility reported data

The overall 2014 occupancy for the Nassau-Suffolk Region was 91.9%. Hilaire's occupancy was 89.4% in 2012, 85.1% in 2013 and 86.3% in 2014. According to the applicant, the facility experienced historically low occupancy due to a patient population that relies heavily on rehabilitative services, which, due to the related shorter lengths of stay, contributes to lower occupancy rates. The recent decline in occupancy in 2015 is attributed to replacement of the facility's administrator as well as the current owner being out of the country for an extended period of time, resulting in a lack of leadership to focus on resident admissions.

The facility is located in a stately mansion, which provides a homelike environment for residents. The small size of the facility, with all private, single rooms, facilitates individualized care and a high staff-to-patient ratio. The proposed operators plan to use these features to increase the facility's occupancy to the Department's planning optimum by Year 3. To achieve this, the proposed operator will implement the following:

- Establish an enhanced relationship with Huntington Hospital, located one mile away, and North Shore LIJ Health System to facilitate admissions.
- Initiate an outreach/education program with Senior Planning Services to admit Medicaid-pending patients. The proposed owner has used Senior Planning Services in partnership with other facilities under their operation and, as a result, Medicaid-pending admissions comprise over 60% of annual long-term care admissions. Acceptance of Medicaid-pending patients may reduce placement of these residents outside their preferred service area.
- Change the model of care to one that directly supports DSRIP program goals and community needs including: reduce potentially preventable hospital admissions/readmissions through the implementation of the INTERACT model; create a Congestive Heart Failure (CHF) Program as a subset of the INTERACT model to provide daily monitoring, early identification of instability and intervention to avoid hospitalization of CHF patients; provide transfusion and IV therapy services; integrate Palliative Care into the care model; and continue a pulmonary rehabilitation program.

Although no bed reductions is requested for Hilaire Nursing and Rehab, this application is being considered concurrently with CON #161180 for Nesconset Nursing Center, for which the Applicant has agreed to decertify 12 beds in connection with the purchase of that facility by the same prospective owners as those for Hilaire. Therefore, from a planning perspective, there will be an overall reduction in excess bed capacity in the Nassau-Suffolk region in the processing of these two transactions.

#### 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.

Hilaire's Medicaid admissions for 2013 and 2014 are 10.3% and 15.1%, respectively. This facility did not exceed the Suffolk County 75% Medicaid admission threshold rates in 2013 and 2014 of 19.4% and 16.6%, respectively. The facility will be subject to corresponding contingencies upon approval.

#### Conclusion

Approval of this application will maintain a needed resource for the residents of Suffolk County and the Nassau-Suffolk Region.

#### Recommendation

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

## Program Analysis

### Facility Information

	Existing	Proposed
Facility Name	Hilaire Rehab & Nursing	Hilaire Rehab & Nursing
Address	9 Hilaire Drive, Huntington	Same
RHCF Capacity	76	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	Hilaire Farm Skilled Living & Rehabilitation Center, LLC	Huntington Acquisition 1, LLC <u>Members</u> <b>Huntington ZJ 1 Holding, LLC 51%</b> * Zipporah Farkas (50%) Joseph Schlanger (50%) <b>Nesconset Investors, LLC 49%</b> *Jonah Lobell (50%) Leslie Rieder (40%) Samuel J. Rieder (10%)  * Managing Member

### Character and Competence - Background

#### Facilities Reviewed

##### New York

Newfane Rehabilitation & Health Care Center 12/2015 to present

##### Massachusetts Nursing Homes

The Reservoir Center for Health and Rehabilitation 06/2012 to present  
 Colony Center for Health and Rehabilitation 06/2012 to present  
 Country Center for Health and Rehabilitation 06/2012 to present  
 Eliot Center for Health and Rehabilitation 06/2012 to present  
 Newton Wellesley Center for Alzheimer's Care 06/2012 to present  
 Sachem Center for Health and Rehabilitation 06/2012 to present

##### Maine Nursing Homes

Augusta Center for Health and Rehabilitation 06/2012 to present  
 Brentwood Nursing Center for Health and Rehabilitation 06/2012 to present  
 Brewer Center for Health and Rehabilitation 06/2012 to present  
 Eastside Center for Health and Rehabilitation 06/2012 to present  
 Kennebunk Center for Health and Rehabilitation 06/2012 to present  
 Norway Center for Health and Rehabilitation 06/2012 to present  
 Winship Green Center for Health and Rehabilitation 06/2012 to present

##### New Hampshire Nursing Homes

Dover Center for Health and Rehabilitation 06/2012 to present

##### New Jersey Nursing Home

Warren Haven Nursing Home 09/2015 to present

#### Individual Background Review

**Zipporah Farkas** has no previous nursing home experience or ownership interests. Ms. Farkas has a high school diploma and lists no employment history, however she lists volunteer work which is not nursing home related and therefore not being disclosed in this report.

**Joseph Schlanger** lists his employment as the Executive Director of Warren Haven Nursing Home in Oxford, NJ, since September 2015. Previously, Mr. Schlanger was the Executive Director at Chapin Hill at Red Bank, a nursing home located in Red Bank, New Jersey. He has held this position for over seven years. He has received a Bachelor in Hebrew letters degree. Mr. Schlanger discloses ownership interest in the following health facility:

Warren Haven Nursing Home (NJ)	9/2015 to present
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**Jonah Lobell** lists his employment as the President of Meridian Capital Group, LLC, a mortgage company located in New York, New York. He was previously a licensed stockbroker (Series 7), with license expiring in 2012. Mr. Lobell also continues to consult for his previous employer, Paramount Bio Sciences, a venture capital and drug development firm located in New York, New York. He has received a Bachelor of Arts degree and a Juris Doctor degree. Jonah Lobell discloses the following ownership interests in health facilities:

Newfane Rehabilitation & Health Care Center (NY)	12/2015 to present
The Reservoir Center for Health & Rehabilitation (MA)	06/2012 to present
Colony Center for Health and Rehabilitation (MA)	06/2012 to present
Country Center for Health and Rehabilitation (MA)	06/2012 to present
Eliot Center for Health and Rehabilitation (MA)	06/2012 to present
Newton Wellesley Center for Alzheimer's Care (MA)	06/2012 to present
Sachem Center for Health and Rehabilitation (MA)	06/2012 to present
Augusta Center for Health and Rehabilitation (ME)	06/2012 to present
Brentwood Nursing Center for Health and Rehabilitation (ME)	06/2012 to present
Brewer Center for Health and Rehabilitation (ME)	06/2012 to present
Eastside Center for Health and Rehabilitation (ME)	06/2012 to present
Kennebunk Center for Health and Rehabilitation (ME)	06/2012 to present
Norway Center for Health and Rehabilitation (ME)	06/2012 to present
Winship Green Center for Health and Rehabilitation (ME)	06/2012 to present
Dover Center for Health and Rehabilitation (NH)	06/2012 to present

**Leslie Rieder** lists his employment as Principal in Rieder Communities, a real estate investment company located in New York, New York. He lists a Bachelor of Science degree. Mr. Rieder discloses no ownership interest in health facilities.

**Samuel J. Rieder** lists his employment as the Director of Acquisitions at Rieder Communities, a real estate investment company located in New York, New York. He indicates he has a Certificate in Real Estate and a Bachelor in Talmudic Law degree. Mr. Rieder discloses no ownership interest in health facilities.

#### Character and Competence - Analysis

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

The health facility experience for the proposed operators is based primarily in non-New York State facilities. The Department's access to information for non-New York State facilities is limited and relies on disclosure by the applicant, interviews and documentation from non-New York State regulatory entities (when available), and review of publically available information including Medicare.gov (Nursing Home Compare). The information presented is assumed to be accurate and complete based on assurances and attestations provided by the applicant.

A review of Medicare.gov (Nursing Home Compare), as well as affidavit submitted by the applicant for The Reservoir Center for Health and Rehabilitation, Country Center for Health and Rehabilitation, Eliot Center for Health and Rehabilitation, Newton Wellesley Center for Alzheimer's Care, and Sachem Center for Health and Rehabilitation in the state of Massachusetts for the periods identified above did not disclose enforcement actions against the facilities.

The applicant disclosed that for Colony Center for Health and Rehabilitation (MA) there was an enforcement dated 9/18/2014 under 483.20(k)(3)(ii) – Qualifications of Facility Staff (F0282) & 483.25(h) – Accidents and Supervision (F0323) with a scope and severity of G. The fine was \$3,000, which has been paid. The facility is currently in compliance.

Information received from the State of Maine for Augusta Center for Health and Rehabilitation, Brewer Center for Health and Rehabilitation, Kennebunk Center for Health and Rehabilitation, Norway Center for Health and Rehabilitation, and Winship Green Center for Health and Rehabilitation for the periods identified above did not disclose enforcement actions against the facilities.

The applicant disclosed that for Brentwood Nursing Center for Health and Rehabilitation (ME) there was an enforcement dated 2/13/2014 under 483.25 – Quality of Care (F0309) with a scope and severity of G. The fine was \$2,500 which has been paid, and the facility is currently in compliance.

The applicant disclosed that for Eastside Center for Health and Rehabilitation (ME) there was an enforcement dated 2/29/2016 under 483.25(h) – Accidents and Supervision (F0323) with a scope and severity of G & 483.25(c) – Pressure Ulcers (F0314) which was an immediate jeopardy. The fine was \$13,650 which has been paid at a reduction of 35%, and the facility is currently in compliance.

Information was received from the State of New Hampshire stating that Dover Center for Health and Rehabilitation did not have any enforcement actions for the periods identified above.

A review of Medicare.gov (Nursing Home Compare), as well as affidavit submitted by the applicant for Warren Haven Nursing Home in New Jersey for the periods identified above did not disclose enforcement actions against the facility.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
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**New York**

Newfane Rehab and Health Care Center	**	**	****
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**Massachusetts**

Reservoir Center for Health & Rehabilitation, The	**	**	**
Colony Center for Health & Rehabilitation	***	**	*****
Country Center for Health & Rehabilitation	***	**	**
Eliot Center for Health & Rehabilitation	*	*	***
Newton Wellesley Center for Alzheimer's Care	*****	****	*****
Sachem Center for Health & Rehabilitation	**	*	*****

Provider Name	Overall	Health Inspection	Quality Measures
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**Maine**

Augusta Center for Health & Rehabilitation, LLC	*****	***	*****
Brentwood Center for Health & Rehabilitation, LLC	***	**	****
Brewer Center for Health & Rehabilitation, LLC	****	***	***
Eastside Center for Health & Rehabilitation, LLC	**	*	*****
Kennebunk Center for Health & Rehabilitation, LLC	**	*	*****
Norway Center for Health & Rehabilitation, LLC	*****	*****	****
Winship Green Center for Health & Rehab, LLC	****	****	****

**New Hampshire**

Dover Center for Health & Rehabilitation	*	*	****
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**New Jersey**

Warren Haven Rehab and Nursing Center	*	**	**
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**Project Review**

This application proposes to establish Huntington Acquisition 1, LLC as the operator of Hilaire Rehab and Nursing. Huntington Acquisition 1, LLC is an existing New York State limited liability company whose members include two newly formed New York State limited liability companies, Huntington ZJ 1 Holding, LLC and Nesconset Investors, LLC. Huntington ZJ 1 Holding, LLC and Nesconset Investors, LLC is not known to be the operator of record on any health facility, or be the member of any health care related operating entities.

No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application.

**Conclusion**

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in current compliance with all rules and regulations. The individual background review indicates the proposed board members have met the standard for approval as set forth in Public Health Law §2801-a(3).

**Recommendation**

**From a programmatic perspective, 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 become effectuated upon PHHPC approval of this CON. The terms are summarized below:

Date:	September 18, 2014
Seller:	Hilaire Farm Skilled Living & Rehabilitation Center, LLC
Purchaser:	Huntington Acquisition 1, LLC d/b/a Hilaire Rehab & Nursing
Assets Transferred:	All rights, title and interest in the business assets lien free, the business and operation of the facility. The assets include leases, inventory, supplies, and other articles of personal property, all assumed contracts, resident funds held in trust, trade names, logos, trademarks and service marks, all security deposits and prepayments for future services, all menus, policies and procedures manuals and computer software, telephones numbers, telefax numbers and domain names, copies financial books and records relating to the facility, all resident/patient records, all employees payroll records, Seller's Medicare and Medicaid provider numbers, goodwill will and licenses and permits.
Excluded Assets:	Pre-closing accounts receivables; retroactive rate increases for services prior to closing date, securities, refunds and settlements prior to closing, and assets in 401 (k) and deferred compensation plans.
Assumed Liabilities:	Those occurring after the Closing date.
Purchase Price:	\$1,900,000
Payment:	\$100,000 escrow deposit (paid at the time of signing) \$1,800,000 due at closing.

Upon closing, the applicant will retain the nursing home license, supplies on hand, and the equipment necessary to operate the facility. The applicant will transfer the remaining assets to the new real property owner.

The purchase price will be satisfied as follows:

Equity (Huntington Acquisition 1, LLC Members)	\$610,000
Assumed Liability (Huntington Realty 1, LLC)	<u>\$1,290,000</u>
Total	<u>\$1,900,000</u>

BFA Attachment A is the net worth summary for the members of Huntington Acquisition 1, LLC, which reveals sufficient resources to meet the equity requirements.

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. As of October 31, 2016, the facility had no outstanding Medicaid liabilities.

### Assignment and Assumption Agreement

The applicant has submitted a draft Assignment and Assumption Agreement to assign certain assets to Huntington Realty 1, LLC, as summarized below:

Assignor:	Huntington Acquisition 1, LLC
Assignee:	Huntington Realty 1, LLC
Assets Transferred:	Goodwill, leasehold improvements, furniture, fixtures and equipment of Hilaire Rehab & Nursing, except those used in the operation of the facility.
Assets Excluded:	All assets not specified above
Considerations:	Liabilities remaining after equity contribution made by members towards the purchase price as defined in the Asset Purchase Agreement.

### 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 close concurrent with the APA upon PHHPC approval of this CON. The terms are summarized below:

Date:	September 18, 2014
Seller Realty:	Skillaire, LLC
Purchaser Realty:	Huntington Realty 1, LLC
Asset Transferred: (Realty)	All rights, title and interest in the real property including: the land, buildings, structures and improvements, fixtures, easements and appurtenances known by the address 9 Hilaire Drive, Huntington, New York 11743 and further identified as (Section 97, Block 2, Lots 85,86, and 87 in the County of Suffolk).
Purchase Price:	\$5,750,000 (realty)
Payment of Purchase Price:	\$320,000 escrow deposit (paid at the time of signing) \$5,430,000 due at closing (includes assumed liability of operator)

The purchase price, inclusive of the assumption of liabilities related to the acquisition of the operating interest, is proposed to be satisfied as follows:

Equity (Huntington Realty 1, LLC Members)	\$ 540,000
Loan ((25 years, self-amortizing, 30 Day Libor (0.5% floor) + 7.15%)	<u>\$6,500,000</u>
Total	<u>\$7,040,000</u>

BFA Attachment A is the proposed members' net worth summaries of Huntington Realty 1, LLC, which reveals sufficient resources to meet the equity requirements. A letter of interest has been provided by Formation Lending Group to finance the above referenced purchases.

### Lease Agreement

An executed lease was submitted to lease the RHCF real property. The terms are summarized below:

Date:	December 31, 2014
Premises:	76-bed RHCF located at 9 Hilaire Drive, Huntington, NY 11743
Owner/Landlord:	Huntington Realty 1, LLC
Lessee:	Huntington Acquisitions 1, LLC
Term:	323 months
Rent:	\$669,628 per year (\$55,802 per month)
Provisions:	Triple Net. Tenant responsible for taxes, insurance, maintenance & utilities.

The applicant has submitted an affidavit indicating that the lease agreement will be non-arm's length.

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

### Operating Budget

The applicant has provided the current year (2015) budget and their operating budget, in 2016 dollars, for the first year of operation subsequent to the change in ownership. The budget is summarized below:

<u>Revenues</u>	<u>Current Year</u>		<u>Year One</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
Medicaid-FFS	\$272.16	\$4,245,643	\$260.92	\$4,239,200
Medicare-FFS	\$526.06	\$2,340,449	\$636.24	\$3,992,400
Private Pay	\$290.04	\$713,220	\$438.94	\$1,682,000
All Other		<u>\$40,187</u>		<u>\$26,900</u>
Total Revenue		\$7,339,499		\$9,940,500
 <u>Expenses</u>				
Operating	\$363.41	\$8,179,724	\$344.33	\$9,074,500
Capital	<u>\$23.80</u>	<u>\$535,832</u>	<u>\$28.57</u>	<u>\$753,000</u>
Total	\$387.21	\$8,715,556	\$372.90	\$9,827,500
Net Income		<u>(\$1,376,057)</u>		<u>\$113,000</u>
Utilization ( Patient days)		22,508		26,354
Occupancy		81.0%		95.0%

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

- Medicaid revenue is based on the facility's current 2016 Medicaid Regional Pricing rate.
- The Medicare rate is the actual daily rate experienced by the facility during 2015, adjusted based on applicant's experience with similar sized facilities out of state. Private Pay and Other payment rates are based on the facility's actual 2015 rates.
- Expense assumptions are based on the current experience of the facility in 2015, adjusted to the projected census in the first and third years. Lease rental expense per the executed lease has been included.
- The breakeven utilization is projected at 93.92% or 26,054 patient days.
- Utilization by payor for the current and first year after the ownership change is summarized below:

<u>Payor</u>	<u>Current Year</u>		<u>Year One</u>	
	<u>Visits</u>	<u>%</u>	<u>Visits</u>	<u>%</u>
Medicaid-FFS	15,600	69.3%	16,247	61.7%
Medicare-FFS	4,449	19.8%	6,275	23.8%
Private Pay	<u>2,459</u>	<u>10.9%</u>	<u>3,832</u>	<u>14.5%</u>
Total	22,508	100.0%	26,354	100.0%

### Capability and Feasibility

The purchase price for the RHCf's operating interest is \$1,900,000 and will be funded via \$610,000 in members' equity with the remaining \$1,290,000 to be assumed by the proposed real property owner, Huntington Realty 1, LLC. Concurrently, Huntington Realty 1, LLC will purchase the real property for \$5,750,000 to be funded as follows: \$540,000 in members' equity and a \$6,500,000 loan at the above stated terms (includes assumption of \$1,290,000 operating interest liability). Formation Lending Group has provided a letter of interest for the loan. BFA Attachment A is the members' net worth summaries for the operator and realty entities, which shows sufficient assets to complete the transactions. There are no project costs associated with this application.

The working capital requirement is estimated at \$1,637,916 based on approximately two months of Year One expenses. The applicant will provide \$818,958 from the members' equity with the remaining \$818,958 to be satisfied through a five-year term loan at 6.5% interest rate. Formation Lending Group

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 \$113,000 in Year One after the change in ownership. The budget was created taking into consideration the proposed new owners' experience operating similar sized facilities (out of state RHCFS). The proposed operator projects to increase occupancy by refocusing on implementing various programs, as stated above. BFA Attachment D is Huntington Acquisition 1, LLC's and Huntington Realty 1, LLC's pro forma balance sheet, which shows the entities will start with \$1,428,959 (operating) and \$540,000 (realty) in members' equity, respectively. 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 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 C is the 2014 - 2015 certified Financial Summary of Hilaire Farm Skilled Living & Rehabilitation Center, LLC and their internal financials as of June 30, 2016. As shown, the RHCF had an average negative working capital position of \$1,183,368, average positive net assets of \$160,848, and an average negative income of \$735,784 for the period. The applicant indicated that the reason for the negative performance was due to low occupancy. During this period, the facility's average occupancy was 82.36%. The proposed sale of the nursing home is expected to result in improved utilization due to the aforementioned service enhancements and the satisfaction of liabilities with no impairment on the assets, thus improving the total net asset position. As shown on BFA Attachment C, the consolidated certified financial statement of Hilaire Farm Skilled Living & Rehabilitation Center and Skillaire, LLC for 2015 shows that the RHCF and the realty entity had a negative working capital position of \$1,385,750 and negative net assets position of \$260,611.

Based on the preceding, 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 of Huntington Acquisition 1, LLC d/b/a Hilaire Rehab & Nursing and Huntington Realty 1, LLC
BFA Attachment B	Pre and Post Ownership of the RHCF Realty
BFA Attachment C	Financial Summary of Hilaire Farm Skilled Living & Rehabilitation Center, LLC and 2015 Certified Financial Statement of Hilaire Farm Skilled Living & Rehabilitation Center, LLC and Skillaire, LLC
BFA Attachment D	Pro Forma Balance Sheet, Huntington Acquisitions 1, LLC d/b/a Hilaire Rehab & Nursing and Huntington Realty 1, LLC



**Project # 161338-E**  
**Riverdale SNF, LLC d/b/a Schervier Nursing Care Center**

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

**County:** Bronx  
**Acknowledged:** May 23, 2016

**Executive Summary**

**Description**

Riverdale SNF, LLC (Riverdale), an existing New York limited liability company, requests approval to be established as the new operator of Frances Schervier Home and Hospital d/b/a Schervier Nursing Care Center (SNCC), a 364-bed, New York not-for-profit, Article 28 Residential Health Care Facility (RHCF) located at 2975 Independence Avenue, Bronx (Bronx County). Upon approval, the entity will do business as Schervier Nursing Care Center. There will be no change in beds or services provided as a result of this application.

Bon Secours New York Health System, Inc. (BSNYHS) is the sole member of SNCC. Upon approval of this application request, ownership of the operations will transfer to Riverdale SNF, LLC whose members are Eliezer Zelman (10%) and Aaron Lankry (90%).

BSNYHS is a not-for-profit corporation established to direct and oversee the various operating programs of BSNYHS under the direction of its sole member, Bon Secours Health System, Inc. (BSHS), a Maryland nonstock corporation. BSNYHS, as the sole member of SNCC, decided to sell substantially all of the assets of SNCC because the RHCF has been operating at a loss in recent years and they believe the transaction will help ensure continued access to care. A competitive bidding process was initiated to identify buyers interested in purchasing SNCC, its related realty and the adjacent senior apartment/affordable housing building. The property is subject to zoning lot restrictions that require the premises to be treated as one zoning lot. From a field of eleven potential buyers, one was selected based

on the prospective buyer's diversity of local facility culture, prior experience with similar transactions from Catholic sponsorships, economic strengths and community service considerations. The proceeds from the sale of the operating interest and real estate of the RHCF will be used to expand senior home care, clinically integrated networks for population health, and related community services for seniors across the Bon Secours Health System.

On March 31, 2016, Frances Schervier Home and Hospital entered into an Asset Purchase Agreement (APA) with Riverdale SNF, LLC for the sale and acquisition of the operating interests of the RHCF for a purchase price of \$50,000. Concurrently on March 31, 2016, Frances Schervier Home and Hospital and BSNYHS entered into a Real Estate Purchase Agreement (REPA) with 2975 Independence Avenue, LLC and 775 Kappock Street, LLC for the sale and acquisition of the land and building of the nursing home (Tax Lot 382) and the surrounding non-Article 28 real property (Tax Lot 469) for a purchase price of \$86,950,000. 2975 Independence Avenue, LLC will purchase the land, building and improvements, and rights associated with the land, fixtures, and all personal property of the nursing home. The applicant will lease the premise from 2975 Independence Avenue, LLC. There is no common ownership, officers or directors or management between the proposed owners of Riverdale SNF, LLC and 2975 Independence Avenue, LLC.

OPCHSM Recommendation  
Contingent Approval

#### Need Summary

There will be no changes to beds at this facility. Schervier Nursing Care Center's occupancy was 95.9% in 2012, 93.7% in 2013, and 94.3% in 2014. Overall occupancy for 2016 at this facility is 97.2%. Current occupancy, as of June 29, 2016 is 98.1%, with 7 vacant beds.

#### Program Summary

No negative information has been received concerning the character and competence of the proposed applicants. No changes in the program or physical environment are proposed in this application. The applicant has stated there will be no administrative services or consulting agreements.

#### Financial Summary

Riverdale SNF, LLC will acquire the RHCF's operations for \$50,000 to be funded with owners' equity. There are no project costs associated with this application. The projected budget is as follows:

	<u>Year One</u>
Revenues	\$47,798,700
Expenses	<u>\$47,085,279</u>
Net Income	\$713,421

## 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 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]
2. 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]
3. 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]
4. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
5. Submission of a commitment for a permanent mortgage for the project to be provided from a recognized lending institution at a prevailing rate of interest, acceptable to the Department. Include with the submitted permanent mortgage commitment must be a sources and uses statement and a debt amortization schedule, for both new and refinanced debt. [BFA]
6. Submission of documentation attesting to the allocation of the realty purchase price between the Article 28 space (Nursing Home) and the non-Article 28 space, acceptable to the Department of Health. [BFA]
7. Submission of an executed lease agreement, acceptable to the Department of Health. [BFA]
8. Submission of a photocopy of a signed Certificate of Assumed Name, which is acceptable to the Department. [CSL]
9. Submission of a photocopy of a signed Certificate of Amendment of Articles of Organization, which is acceptable to the Department. [CSL]
10. Submission of a photocopy of a signed amended Operating Agreement, which is acceptable to the Department. [CSL]
11. Submission of a photocopy of a signed and dated Lease Agreement, which is acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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. 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]

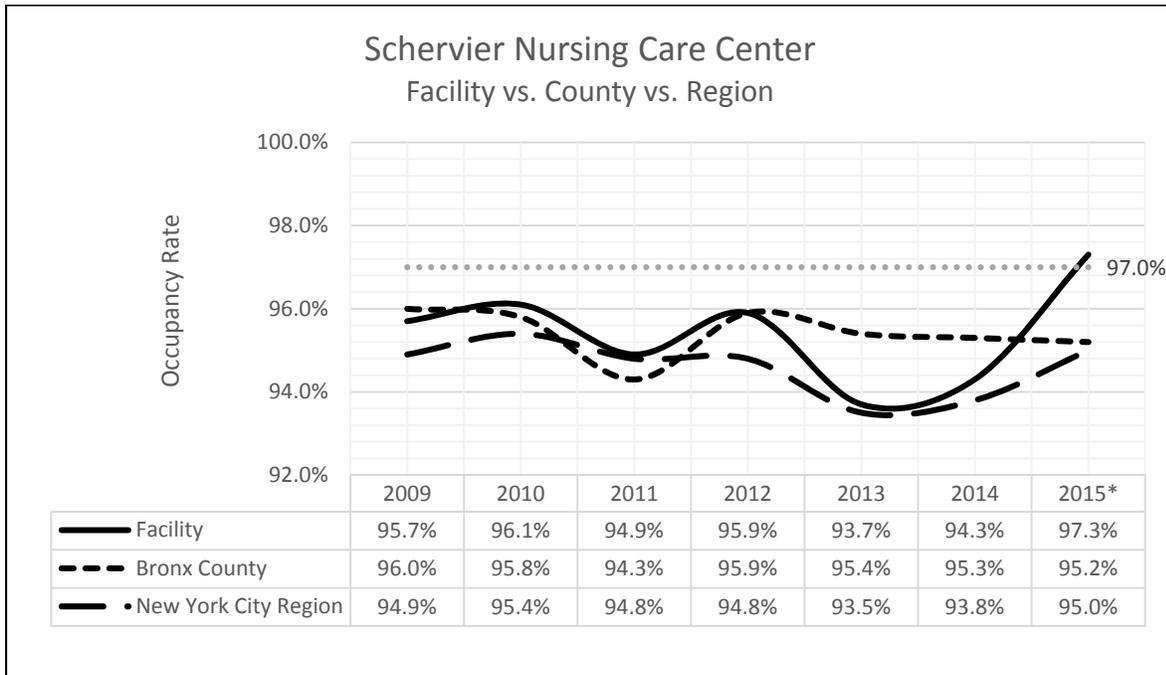
Council Action Date  
**December 8, 2016**

# Need Analysis

## Analysis

There is currently a need of 9,482 beds in the New York City Region as indicated in the following table:

<b>2016 Projected Need</b>	51,071
<b>Current Beds</b>	41,769
<b>Beds Under Construction</b>	-180
<b>Total Resources</b>	41,589
<b>Unmet Need</b>	9,482



\*unaudited, facility reported data

The overall occupancy for the New York City Region was 93.8% for 2014. Schervier Nursing Care Center's occupancy was 95.9% in 2012, 93.7% in 2013, and 94.3% in 2014. During 2013 and 2014, the current operators performed an evaluation of its shifts in census over the years. The analysis was to gain a better understanding of the short-term and long-term needs of the community as well as the typical referral pattern that was made to the facility. As a result, the fluctuations were attributable to the fact that the operator had internally closed to reallocate resources from one subacute unit because of the low census. The operators repurposed the unit in an effort to regularly serve both short-term and long-term patients. While this became an economic challenge for a period of time, it appears to have been beneficial as the facility's losses decreased and occupancy increased.

In 2016, the facility has been at or above the Department's planning optimum and the applicant will be undertaking the following strategies, consistent with past successful experiences at their other nursing homes, to retain a consistently high level of occupancy:

- Meetings with the local community leaders: Each community has specific needs, and the local community leaders and operators will collaborate to determine what those "needs" are and develop programs within the nursing facility to address them;
- Meeting with the local hospitals: To ensure a cooperative effort in identifying and developing both short-term and long-term programs the hospitals feel are lacking in the community, the operators will collaborate on services within the nursing home. This could be in the area of bariatric care, dialysis and end stage renal disease, and dementia.

- Meetings with the local physicians: To determine what the medical community feels is lacking in the area, the operators will work with the local physicians to develop programs and services to address the specific needs of the community. This could be in the area of IV care, pulmonary services, or trach care.

**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.

Schervier Nursing Care Center’s Medicaid admissions of 18.7% in 2013 did not exceed the Bronx County’s 75% rate in 2013 of 29.8%. Schervier Nursing Care Center’s Medicaid admissions of 29.9% exceeded Bronx County’s 75% rate in 2014 of 29.1%.

**Conclusion**

Contingent approval will maintain an existing resource to the residents of Bronx County.

**Recommendation**

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

<b>Program Analysis</b>
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**Facility Information**

	<b>Existing</b>	<b>Proposed</b>
Facility Name	Schervier Nursing Care Center	Schervier Nursing Care Center
Address	2975 Independence Avenue Bronx, NY. 10463	Same
RHCF Capacity	364	Same
ADHC Program Capacity	N/A	N/A
Type of Operator	Corporation	Limited Liability Company
Class of Operator	Voluntary / Not-for-profit	Proprietary
Operator	Franciscan Sisters of the Poor, Inc.	Riverdale SNF, LLC  Membership: Aaron Lankry            90.0% *Jay Eliezer Zelman    10.0 100.0% *Managing Member

Character and Competence - Background

**Facilities Reviewed**

Nursing Homes

Achieve Rehabilitation Center	12/2008 to present
Eastern Shore Rehabilitation and Nursing Center (AL)	12/2011 to 5/2016
Graceland Rehabilitation and Nursing Center (TN)	05/2015 to present
North Campus Rehab (FL)	02/2015 to present
Superior Rehabilitation and Nursing Center (TN)	07/2015 to present

**Individual Background Review**

**Aaron Lankry** currently serves as the rabbi at Bais Medrash Orch Chaim in Monsey, New York. Previously he served as rabbi at Fifth Avenue Sephardic Community Center in Manhattan (2008 to 2011), and rabbi at Beit Edmond J. Safra Synagogue in Aventura, FL. Rabbi Lankry discloses the following nursing home ownership interests:

Eastern Shore Rehabilitation and Nursing Center (AL)	12/2011 to 5/2016
Graceland Rehabilitation and Nursing Center (TN)	05/2015 to present
North Campus Rehab (FL)	02/2015 to present
Superior Rehabilitation and Nursing Center (TN)	07/2015 to present

**Jay Eliezer Zelman** is currently employed as the Regional Director of Operations for Global Healthcare Service Group, indicated as a healthcare operations business. Previously Mr. Zelman was the administrator of record at Achieve Rehab and Nursing Facility, from March 2003 to March 2013. Mr. Zelman holds a New York State nursing home administrator license in good standing, and a New Jersey nursing home administrator license, also in good standing. Mr. Zelman discloses the following nursing home ownership interest:

Achieve Rehab and Nursing Center	12/2008 to present
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Character and Competence - Analysis

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

A review of operations for Graceland Rehabilitation and Nursing Center (TN) for the period identified above indicates the nursing home incurred a Civil Monetary Penalty of \$10,270.

A review of operations for Achieve Rehab and Nursing Center for the period identified reveals that there were no enforcements.

A review of operations for Eastern Shore Rehabilitation and Nursing Center (AL), North Campus Rehab (FL), and Superior Rehabilitation and Nursing Center (WI) indicates there were no enforcements.

The Department's access to information for non-New York State facilities is limited and relies on disclosure by the applicant, interviews and documentation from non-New York State regulatory entities when available, and review of publically available information from websites like Medicare.gov Nursing Home Compare. The information presented is assumed to be accurate and complete based on such information.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures
<b>New York</b>			
Achieve Rehab and Nursing Facility	***	****	*
<b>Alabama</b>			
Eastern Shore Rehabilitation and Health Center	***	***	*
<b>Tennessee</b>			
Graceland Nursing Center	*	*	***
<b>Florida</b>			
North Campus Rehabilitation and Nursing Center	**	***	*
<b>Wisconsin</b>			
Superior Nursing and Rehabilitation Center	*	*	**

Project Review

No changes in the program or physical environment are proposed in this application. The applicant has indicated there will be no administrative services or consulting agreements.

Conclusion

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background review indicates the applicants have met the standard for approval as set forth in Public Health Law §2801-a(3).

Recommendation

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

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

The applicant has submitted an executed Asset Purchase Agreement for the purchase of the operating interests, as summarized below:

Date:	March 31, 2016
Seller:	Frances Schervier Home and Hospital
Buyer:	Riverdale SNF, LLC
Asset Acquired:	Non-Fixed Equipment; Assigned Contracts; resident records; Medicare and Medicaid provider numbers and provider agreements; all permits related to the business; resident/patient prepayments; security deposits; inventory in stock; telephone numbers facsimile numbers; and goodwill
Excluded Assets:	Cash and Cash Equivalents; accounts receivable; books of accounts; refunds, settlements, or retroactive adjustments prior to close; personnel records; credits, prepaid expenses, deferred charges; the names "Bon Secours" and "Frances Schervier; assets of the Employee Plans; religious art and artifacts;
Assumption of Liabilities:	Unused sick, personal, and/or vacation days and other benefits;

Purchase Price:	\$50,000 less Employee Benefits Credit and any Bed Reduction Credit plus the assumption of the Assumed Liabilities.
Payment of Purchase Price:	\$50,000 Equity
Covenants:	Per section 7.2 the buyer shall continue to operate the skilled nursing facility for a minimum of 5 years, and make capital investments in the business in accordance with Schedule 7.2 with a minimum of \$250,000 in the first twelve months subject to penalty if not achieved.

The applicant has submitted an 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 the liability and responsibility. Currently, there are no outstanding Medicaid liabilities or assessments.

#### Purchase Agreement for the Real Property

The applicant has submitted the executed REPA with associated Exhibits for the RHCF and surrounding real property acquisitions. The closing of the REPA transactions are to take place concurrent with to be conducted pursuant to the nursing home contract. The terms of the REPA are summarized below:

Date:	March 31,2016
Tax Lot 382 Seller:	Frances Schervier Home and Hospital
Tax Lot 382 Buyer:	2975 Independence Avenue LLC
Tax Lot 382 Premises:	Land and buildings on Tax Lot 382 including 2975 Independence Avenue, Bronx, NY
Tax Lot 469 Seller:	Bon Secours New York Health System, Inc.
Tax Lot 469 Buyer:	775 Kappock Street LLC
Tax Lot 469 Premises:	Land and buildings on Tax Lot 469, known as 726 West 231st Street, Bronx, NY
Assets Transferred:	The Premises' land, building and appurtenances including plans, specifications, architectural and engineering drawings, prints, surveys, soil and substrata studies relating to the Premises in Seller's possession; operating manuals and books, data and records regarding the Premises; licenses, permits, certificates of occupancy and other approvals issued by any government authority; and all trade fixtures and all equipment, machinery, materials, supplies and other personal property attached or appurtenant to the Building or located at and used in the operation or maintenance of the Land or Building to the extent same are owned by Seller
Purchase Price: #	\$86,950,000 minus any credits against the Purchase Price pursuant to the Nursing Home Contract plus all other amounts due and owing under this Agreement net of any Closing Adjustments.
Payment of Purchase Price	\$5,500,000 Deposit held in Escrow \$81,450,000 Due at Closing

# The allocation of the purchase price between the Article 28 space (Nursing Home) and the non-Article 28 space has not been finalized to date.

The applicant states there are no common officers, directors or managers between the Proposed Operator and any of the other entities. The applicant members of Riverdale SNF, LLC do not have ownership interest in the proposed realty buyers, 2975 Independence Avenue LLC and 775 Kappock Street LLC. The membership of both proposed real property buyers is as follows: Eliezer Scheiner 45%, Teddy Lichtschein 45%, and Zevi Kohn 10%. The applicant states that, concurrent with the above, the real property buyer will purchase additional assets that they believe will bring the aggregate purchase costs to \$110 million.

The proposed real property owners have paid a \$5,500,000 deposit, which is being held in escrow, and will pay an additional \$7,543,000 at closing from their personal resources. A letter from Signature Bank has been received acknowledging liquid resources to cover the equity requirement. The remaining \$73,907,000 will be financed at an interest rate of approximately 4% with a term and payout period of 30 years. HHC Finance has provided a bank letter of interest for the financing.

The applicant will lease the nursing home premises and landlord's personal property at 2975 Independence Avenue, Bronx, NY 10463 from the Tax Lot 382 Buyer, 2975 Independence Avenue LLC, under the terms of the lease referenced below.

#### Lease Rental Agreement

The applicant has submitted a draft lease rental agreement for the RHCF, as summarized below:

Premises:	364-bed Skilled Nursing Facility located at 2975 Independence Avenue, Bronx, NY
Lessor:	2975 Independence Avenue, LLC
Lessee:	Riverdale SNF LLC
Terms:	10 years
Rental:	\$6,600,000 net annual basic rent (payable in equal monthly installments).

The lease arrangement is an arm's lease agreement and the applicant has submitted an affidavit attesting to the fact.

#### Operating Budget

The applicant has submitted an operating budget, in 2017 dollars, during the first year subsequent to the change in operator, as summarized below:

Revenues	Current Year (2015)		Year One	
	Per Diem	Total	Per Diem	Total
Commercial - FFS	\$505.58	\$797,294	\$431.53	\$3,914,425
Medicare - FFS	\$604.07	8,309,603		0
Medicare - MC		0	\$765.01	10,905,200
Medicaid - FFS	\$326.50	33,990,311		0
Medicaid - MC		0	\$295.49	29,484,800
Private Pay	\$415.84	<u>2,688,000</u>	\$415.86	<u>2,694,375</u>
Subtotal		\$45,785,208		\$46,998,800
Other Operating Revenue*		\$799,900		\$799,900
Non-Operating Revenue #		<u>5,084,156</u>		<u>0</u>
Total Revenue		\$51,669,264		\$47,798,700
<u>Expenses</u>				
Operating	\$420.61	\$50,327,988	\$304.33	\$39,436,800
Capital	<u>\$15.81</u>	<u>1,989,935</u>	<u>\$59.02</u>	<u>7,648,479</u>
Total Expenses	\$436.42	\$52,317,923	\$363.35	\$47,085,279
Net Income		<u>(\$648,659)</u>		<u>\$713,421</u>
Utilization ( Patient days)		125,902		129,587
Occupancy		94.76%		97.54%

\* Other Operating Revenue includes: (a) Cafeteria, Gift Shop, Rebates/Refunds from Vendors, and Interest Income; (b) Revenue from Services provided to related and unrelated entities; and (c) the Nursing Home's portion of shared savings payments under Value Based Purchasing.

# Non-Operating Revenue includes: Independent Living Service Revenue for \$1,964,597, Home Health Care for \$2,304,779, CHHA for \$761,153, and miscellaneous non-operating revenue for \$53,627.

The following is noted with respect to the submitted budget:

- Medicare revenues are projected based on the full federal rates for the Medicare Prospective Payment System in effect for 2016 and are increased by 2% per annum for inflations to reflect 2017 dollars. Medicare Part A rates were determined by taking a benchmark of comparable facilities.

- Medicaid Managed Care revenues are projected based on the current operator's 2016 Medicaid FFS rate as benchmark.
- Private and Commercial revenues are projected based on similar facilities in the same geographical area and are increased by 2% per annum for inflation to reflect 2017 dollars.
- Expense assumptions are based on the historical experience of the facility, taking into consideration the following reductions to be implemented:
  - Salary and Wages decrease by \$2,529,956 related to FTE reductions (70 total) in the following areas: Management, Technicians, LPNs, Aides, Infection Control, Environment and Food Service, and Clerical. It is noted that the applicant will be increasing FTEs for Registered Nurses by 6.9 FTEs. Employee Health Benefits decrease by \$2,296,210 related to the reduction of FTE's.
  - Professional Fees decrease by 1,632,432.
  - Purchased Services decrease by \$2,458,801.
  - Other Direct Expenses decrease by \$2,521,947.
- Utilization was at 94.76% in 2015, but recent self-reported occupancy as of June 2016 was at 98.1%.
- Breakeven utilization in the first year is projected at 97.5% or 127,653 patient days.
- Utilization by payor source for the first and third years is anticipated as follows:

	<u>Current</u>	<u>First and Third</u>
Medicaid - MC	82.69%	77.00%
Medicare - MC	10.93%	11.00%
Commercial	1.25%	7.00%
Private Pay	5.13%	5.00%

#### Capability and Feasibility

The purchase price for the operating interests is \$50,000 and will be met via member's equity. The purchase price for the real estate interest (Tax Lots 382 and 469) is \$86,950,000. The members of the real property owners have paid a \$5,500,000 deposit, which is being held in escrow, and will pay an additional \$7,543,000 at the time of closing from personal resources. Realty members Eliezer Scheiner and Teddy Lichtschein will be providing the additional equity. A letter from Signature Bank was submitted acknowledging liquid resources to cover the equity requirement. The remaining \$73,907,000 will be financed at an interest rate of approximately 4% with a term and payout period of 30 years. HHC Finance has provided a bank letter of interest for the financing at the stated terms.

Working capital requirements are estimated at \$8,035,800, which is equivalent to two months of the third year expenses. The applicant will finance \$4,017,900 at an interest rate of 5% for a five-year term. The remaining \$4,017,900 will be provided from member's equity. A bank letter of interest from HHC Finance for the working capital loan at the stated terms has been provided.

BFA Attachment A is the personal net worth statement of the proposed operator, which indicates the availability of sufficient resources to fund both the equity contribution for the purchase price and the working capital requirement.

BFA Attachment D shows the pro forma balance sheet as of the first day of operation, which indicates a positive net asset position of \$4,010,800.

The following is a comparison of 2015 historical and projected revenues and expenses for Year One:

<u>Operating</u>	<u>Annual 2015</u>	<u>Year One</u>
Revenues	\$51,669,264	\$47,798,700
Expenses	<u>52,317,923</u>	<u>47,085,279</u>
Net Operating Income	(\$648,659)	713,421
Incremental Net Income:		<u>\$1,362,080</u>

The increase in projected income comes from a decrease in total expenses based on administrative efficiencies under new management. The most significant decrease will be from Salaries and Employee Benefits tied to the change in staffing pattern. Salaries accounts for a reduction of \$2,529,956 and Employee Benefits accounts for a reduction of \$2,296,210.

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 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 NH revenues through the transition period.

BFA Attachment C is Bon Secours New York Health System, Inc. Consolidated Financial Statements for the period 2014 through August 31, 2016 as well as a financial summary of Schervier Nursing Care Center. As shown, the Consolidated Financial Statements showed an average negative working capital position and an average negative net asset position from 2014 through August 31, 2016. Also, Schervier Nursing Care Center had an average operating net loss of \$2,425,688 for the period 2014 through August 31, 2016.

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.**

## Attachments

BFA Attachment A	Personal Net Worth Statement of Proposed Member
BFA Attachment B	Organizational Chart – Bon Secours Health System
BFA Attachment C	2014- August 31, 2016 Consolidated Financial Statements – Bon Secours New York Health System, Inc. and 2013- August 31, 2016 Financial Summary - Schervier Nursing Care Center
BFA Attachment D	Pro Forma Balance Sheet



Project # 161413-E  
Beach Terrace Care Center

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

**County:** Nassau  
**Acknowledged:** June 9, 2016

Executive Summary

**Description**

Beach Terrace Care Center, Inc., a New York Proprietary Business Corporation that operates a 182-bed, Article 28 Residential Health Care Facility (RHCF) located at 640 West Broadway, Long Beach (Nassau County), requests approval to transfer 40% ownership interest (80 shares) from two withdrawing members to one new member. One of the current shareholders, Abraham N. Klein, died in 2012 bequeathing all of his ownership interest to his wife, Sara Dinah Klein, who also has ownership interest in the facility. As Executrix of the estate, and in accordance with the terms of her husband's Last Will and Testament, Mrs. Klein is assigning her late husband's shares in the Center (18 shares, 9% ownership), as well as all of her shares (62 shares, 31% ownership) to their son-in-law, Avraham Weits, for a purchase price of \$4,396,480.

Ownership of the corporation before and after the requested change is as follows:

Current Ownership

<u>Stockholders</u>	<u>Shares</u>	<u>%</u>
Dorothy Rubin	82	41%
Sara Dinah Klein	62	31%
Martin Zwick	20	10%
Liebel Rubin	18	9%
Abraham N. Klein	18	9%
Total	200	100%

Proposed Ownership

<u>Stockholders</u>	<u>Shares</u>	<u>%</u>
Dorothy Rubin	82	41%
Avraham Weits	80	40%
Martin Zwick	20	10%
Liebel Rubin	18	9%
Total	200	100%

There are no other changes to the current ownership of the facility.

Requests to transfer decedent Abraham Klein's ownership interest in Grandell Rehabilitation and Nursing Center, Inc. (CON 161450) and Oceanside Care Center, Inc. (CON 161452) to Avraham Weits are concurrently under review.

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 proposed applicant identified as a new member. No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application.

Financial Summary  
There are no project costs associated with this application. The purchase price for 80 shares in Beach Terrace Care Center, Inc. is \$4,396,480 and will be met via two promissory notes—one for \$929,402 for the shares related to the Estate of Abraham N. Klein and one for \$3,467,078 related to Mrs. Klein's shares. The promissory notes each provide for a 30-year maturity date with interest computed on the unpaid principal balance at the IRS Long-term Applicable Federal Rate for Quarterly Payments (1.94% as of October 2016) computed based on the rate at

the time of closing. Interest only will be payable quarterly commencing December 31, 2016, with principal for both notes payable by December 31, 2046.

No budget analysis was necessary, as this is an assignment of 40% ownership interest in the RHCF via two Assignment and Assumption Agreements with Sara Dinah Klein, a current shareholder and Executrix of decedent

shareholder's estate. The other current shareholders are remaining in the ownership structure, and the facility is not proposing to change its business model, which has historically been profitable.

## 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 photocopy of a proposed Amended Certificate of Incorporation of Beach Terrace Care Center, Inc, which is acceptable to the department. (CSL)
2. Submission of a photocopy of a proposed Amended Bylaws of Beach Terrace Care Center, Inc, which is acceptable to the department. (CSL)
3. Submission of the schedule 15 attachment titled, "Statement of Relationship between Donor and Donee", fully executed by Sara Dinah Klein, 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

**December 8, 2016**

# Program Analysis

## Facility Information

	<b>Existing</b>	<b>Proposed</b>
Facility Name	Beach Terrace Care Center	Same
Address	640 West Broadway Long Beach, NY 11561	Same
RHCF Capacity	182	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Corporation	Same
Class of Operator	Proprietary	Same
Operator	Beach Terrace Care Center, Inc.	Same
	<u>Current Stock Ownership</u>	<u>Proposed Stock Ownership</u>
	Dorothy Rubin 82	Dorothy Rubin 82
	Sara Dinah Klein 62	Avraham Weits 80
	Martin Zwick 20	Martin Zwick 20
	Liebel Rubin 18	Liebel Rubin 18
	Estate of Abraham N. Klein 18	
	200	200

## Character and Competence-Background

### **Facilities Reviewed**

None

### **Individual Background Review**

Avraham Weits lists his current employment as Certified Financial Officer at Hopkins Center, Bensonhurst Center, Grandell Center, Oceanside Center and Beach Terrace Care Center. Mr. Weits was previously employed as Controller at Queens Nassau Nursing Home. Mr. Weits disclosed no nursing home ownership interests.

## Character and Competence - Analysis

No negative information has been received concerning the character and competence for the new member.

## Project Review

This application proposes a transfer of a total of 80 shares from two withdrawing shareholders to Avraham Weits; 18 shares from the estate of Abraham Klein and 62 shares from Sara Dinah Klein. Abraham N. Klein died in 2012 with his ownership interest bequeathed to his wife, Sara Dinah Klein, who was appointed executrix of his estate. Avraham Weits is the Kleins' son-in-law.

This transaction is in compliance with the requirements for the transfer of ownership for deceased operators as outlined in Title 10 NYCRR §401.3(b)(1) and §401.1(c).

No changes in the program or physical environment are proposed in this application.

## Conclusion

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background review indicates the applicant has met the standard for approval as set forth in Public Health Law §2801-a(3).

Recommendation

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

## Financial Analysis

### Assignment and Assumption Agreements

The applicant has submitted executed Assignment and Assumption Agreements for shares in the RHCF, to be effectuated upon final non-contingent approval by the Public Health and Health Planning Council. The terms are summarized below:

#### Agreement #1 for shares related to the Estate of Abraham N. Klein:

Date:	September 15, 2016
Assignor:	Estate of Abraham N. Klein by Sara Dinah Klein (Executrix)
Assignee:	Avraham Weits
Shares Acquired:	18 shares of stock (9%)
Purchase Price:	\$929,402
Payment of Purchase Price:	Promissory Note for the full amount executed on 9/15/2016

#### Agreement #2 for Mrs. Klein's shares:

Date:	September 15, 2016
Assignor:	Sara Dinah Klein
Assignee:	Avraham Weits
Shares Acquired:	62 shares of stock (31%)
Purchase Price:	\$3,467,078
Payment of Purchase Price:	Promissory Note for the full amount executed on 9/15/2016

The principal amounts and terms of the respective promissory notes are as follows:

Promissory Note #1 (30 years, interest rate*)	\$929,402
Promissory Note #2 (30 years, interest rate*)	<u>\$3,467,078</u>
Total	\$4,396,480

\* Based on the IRS Long-term Applicable Federal Rate for Quarterly Payments determined at the time of closing (1.94% as of October 2016). Interest only will be payable quarterly commencing December 31, 2016, with principal for both notes payable by December 31, 2046.

### Capability and Feasibility

The purchase price for the 80 shares in Beach Terrace Care Center, Inc. is \$4,396,480 and will be met via two promissory notes at the terms stated above. BFA Attachment A provides the personal net worth statement of Avraham Weits, which shows the availability of sufficient liquid resources.

No budget analysis was necessary, as this is an assignment of 40% ownership interest in the RHCF via two Assignment and Assumption Agreements with Sara Klein, a current shareholder and Executrix of decedent shareholder's estate. The other current shareholders are remaining in the ownership structure, and the facility is not proposing to change its business model, which has historically been profitable.

BFA Attachment B is a financial summary of Beach Terrace Care Center, Inc. for 2015 (certified) and the internal financials for the six months ending June 30, 2016, which show the facility had a positive working capital position, positive net income and a positive net asset position 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 Net Worth Statement of Proposed Member  
BFA Attachment B 2015 certified financial summary and internals as of June 30, 2016 - Beach Terrace Care Center, Inc.



**Project # 161450-E  
Grandell Rehabilitation and Nursing Center**

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

**County:** Nassau  
**Acknowledged:** June 23, 2016

**Executive Summary**

**Description**

Grandell Rehabilitation and Nursing Center, Inc., a New York Proprietary Business Corporation that operates a 278-bed, Article 28 Residential Health Care Facility (RHCF) located at 645 West Broadway, Long Beach (Nassau County), New York, requests approval to transfer 50% ownership interest (100 shares) from one withdrawing member to one new member. One of the current shareholders of the RHCF, Abraham N. Klein, died in 2012 and named his wife, Sarah Dinah Klein, the Executrix of his estate. In accordance with the terms of her husband's Last Will and Testament, Mrs. Klein decided to assign all of her late husband's shares in the Center to their son-in-law, Avraham Weits, who is the operating entity's Chief Financial Officer, for a purchase price of \$3,953,061.

Ownership of the corporation before and after the requested change is as follows:

<u>Current Ownership</u>		
<u>Shareholders</u>	<u>Shares</u>	<u>%</u>
Liebel Rubin	100	50
Abraham N. Klein (Estate)	100	50

<u>Proposed Ownership</u>		
<u>Shareholders</u>	<u>Shares</u>	<u>%</u>
Liebel Rubin	100	50
Avraham Weits	100	50

There are no other changes to the current ownership of the facility.

Requests to transfer decedent Abraham Klein's ownership interest in Oceanside Care Center, Inc. (CON 161452) and Beach Terrace Care

Center, Inc. (CON 161413) to Avraham Weits are concurrently under review.

**OPCHSM Recommendation**  
Contingent Approval

**Need Summary**  
There is no Need review of the project.

**Program Summary**  
No negative information has been received concerning the character and competence of the proposed new member. No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application.

**Financial Summary**  
There are no project costs associated with this application. The purchase price for 100 shares in Grandell Rehabilitation and Nursing Center, Inc. is \$3,953,061 and will be met via a promissory note. The promissory note provides for a 30-year maturity date with interest computed on the unpaid principal balance at the IRS Long-term Applicable Federal Rate for Quarterly Payments (1.94% as of October 2016) computed based on the rate at the time of closing. Interest only will be payable quarterly commencing December 31, 2016, with principal for the note payable by December 31, 2046.

No budget analysis was necessary, as this is an assignment of 50% ownership interest in the RHCFC via an Assignment and Assumption Agreement initiated by Mrs. Klein, the Executrix of the estate of the current shareholder Abraham Klein. The other current shareholder remains in the ownership structure, and the facility is not proposing to change its business model, which has historically been profitable.

## 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 photocopy of a proposed Amended Certificate of Incorporation of Grandell Rehabilitation and Nursing Center, Inc, which is acceptable to the department. (CSL)
2. Submission of a photocopy of a proposed Amended Bylaws of Grandell Rehabilitation and Nursing Center, 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

**December 8, 2016**

## Program Analysis

### Facility Information

	<b>Existing</b>	<b>Proposed</b>
Facility Name	Grandell Rehabilitation and Nursing Center	Same
Address	645 West Broadway Long Beach, NY 11561	Same
RHCF Capacity	278	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Corporation	Same
Class of Operator	Proprietary	Same
Operator	Grandell Rehabilitation and Nursing Center	Same
	<u>Current Stock Ownership</u>	<u>Proposed Stock Ownership</u>
	Estate of Abraham N. Klein      100	Avraham Weits                      100
	Liebel Rubin <u>100</u>	Liebel Rubin <u>100</u>
		<u>200</u>

### Character and Competence-Background

#### **Facilities Reviewed**

None

#### **Individual Background Review**

Avraham Weits lists his current employment as Certified Financial Officer at Hopkins Center, Bensonhurst Center, Grandell Center, Oceanside Center and Beach Terrace Care Center. Mr. Weits was previously employed as Controller at Queens Nassau Nursing Home. Mr. Weits disclosed no nursing home ownership interests.

### Character and Competence- Analysis

No negative information has been received concerning the character and competence for this new member.

### Project Review

This application proposes to transfer 100 shares from the estate of Abraham Klein to new shareholder Avraham Weits. Mr. Klein, died in 2012 with his ownership interest bequeathed to his wife, Sara Dinah Klein, who was appointed executrix of the estate. Avraham Weits is the Kleins' son-in-law.

This transaction is in compliance with the requirements for the transfer of ownership for deceased operators as outlined in Title 10 NYCRR §401.3(b)(1) and §401.1(c).

No changes in the program or physical environment are proposed in this application.

### Conclusion

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background review indicates the applicant has met the standard for approval as set forth in Public Health Law §2801-a(3).

### Recommendation

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

## Financial Analysis

### Assignment and Assumption Agreement

The applicant has submitted an executed Assignment and Assumption Agreement for the transfer of 100 shares in the RHCF, to be effectuated upon final non-contingent approval of this application by the Public Health and Health Planning Council. The terms are summarized below:

Date:	September 15, 2016
Assignor:	The Estate of Abraham N. Klein
Executrix of the Assignor:	Sara Dinah Klein
Assignee:	Avraham Weits
Shares Acquired:	100 shares of stock (50%)
Purchase Price:	\$3,953,061
Payment of Purchase Price:	Promissory Note for the full amount executed on 9/15/2016

The promissory note provides for a 30-year term with interest computed based on the IRS Long-term Applicable Federal Rate for Quarterly Payments determined at the time of closing (1.94% as of October 2016). Interest only will be payable quarterly commencing December 31, 2016, with the principal amount due by December 31, 2046.

### Capability and Feasibility

The purchase price for the 100 shares in Grandell Rehabilitation and Nursing Center, Inc. is \$3,953,061 and will be met via a promissory note at the terms states above. BFA Attachment A provides the personal net worth statement of Avraham Weits, which shows the availability of sufficient liquid resources.

No budget analysis was necessary, as this is a transfer of 50% ownership interest in the RHCF via an Assignment and Assumption Agreement from the estate of the decedent shareholder, with the other current shareholder remaining in the ownership structure. The facility is not proposing to change its business model, which has historically been profitable.

BFA Attachment B is the 2015 financial summary of Grandell Rehabilitation and Nursing Center, Inc. As shown, while the facility had a negative working capital position and the facility maintained a positive net asset position and generated \$1,058,090 in net income. BFA Attachment C is the internal May 31, 2016 financial summary of Grandell Rehabilitation and Nursing Center, Inc. As shown, the facility had a positive working capital position, a positive net asset position and generated \$1,266,860 in net income for the year-to-date.

### Conclusion

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

### Recommendation

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

## Attachments

BFA Attachment A	Net Worth Statement of Proposed Member
BFA Attachment B	2015 Certified Financial Summary, Grandell Rehabilitation and Nursing Center, Inc.
BFA Attachment C	2016 Internal Financial Summary, Grandell Rehabilitation and Nursing Center, Inc.



Project # 161452-E
Oceanside Care Center, Inc.

Program: Residential Health Care Facility
Purpose: Establishment

County: Nassau
Acknowledged: June 23, 2016

Executive Summary

Description

Oceanside Care Center, Inc. (the Center), a New York proprietary business corporation that operates a 100-bed Article 28 residential health care facility (RHCF) located at 2914 Lincoln Avenue, Oceanside (Nassau County), requests approval to transfer all 200 shares (100% ownership interest) to two new shareholders from the withdrawing shareholders. One of the current shareholders, Abraham N. Klein, died in 2012 bequeathing all of his ownership interest in the Center to his wife, Sarah Dinah Klein. As Executrix of the estate, and in accordance with the terms of her husband's Last Will and Testament, Ms. Klein will transfer all of her late husband's shares in the Center (110 shares, 55% ownership) to their son-in-law, Avraham Weits, pursuant to the terms of an Assignment and Assumption Agreement and Promissory Note. The other current owner, Liebel Rubin, is gifting his entire interest (90 shares, 45% interest) to Moishe Heller. Mr. Rubin has provided an affidavit and letter documenting his intent to gift his shares to Mr. Heller.

Ownership of the corporation before and after the requested change is as follows:

Table with 3 columns: Stockholders, Shares, %. It is divided into 'Current Ownership' and 'Proposed Ownership' sections.

Requests to transfer decedent Abraham Klein's ownership interest in Grandell Rehabilitation and Nursing Center, Inc. (CON 161450) and Beach Terrace Care Center, Inc. (CON 161413) to Avraham Weits are concurrently under review.

OPCHSM Recommendation
Contingent Approval

Need Summary
There is no Need review of this project.

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

Financial Summary
The purchase price for the transfer of Mr. Klein's 110 shares is \$4,040,351 and will be met via a promissory note for \$4,040,351 that provides for a 30-year term with interest computed on the unpaid principal balance at the IRS Long-term Applicable Federal Rate for Quarterly Payments (1.94% as of October 2016) at the time of closing. Interest only will be payable quarterly commencing December 31, 2016, with principal payable by December 31, 2046. There is no purchase price associated with Moishe Heller's 45% ownership interest.

Table showing projected budget: Revenues \$11,326,279; Expenses 11,148,174; Net Income \$178,105.

## 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 photocopy of a proposed Amended Certificate of Incorporation of Oceanside Care Center, Inc, which is acceptable to the department. (CSL)
2. Submission of a photocopy of a proposed Amended Bylaws of Oceanside Care Center, Inc, which is acceptable to the department. (CSL)
3. Submission of the schedule 15 attachment titled, "Statement of Relationship between Donor and Donee", executed by Sara Dinah Klein, which is acceptable to the department. (CSL)
4. Submission of the schedule 15 attachment titled, "Statement of Relationship between Donor and Donee", executed by Liebel Rubin, 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

**December 8, 2016**

## Program Analysis

### Facility Information

	Existing	Proposed
Facility Name	Oceanside Care Center, Inc.	Same
Address	2914 Lincoln Avenue Oceanside, NY 11572	Same
RHCF Capacity	100	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Corporation	Same
Class of Operator	Proprietary	Same
Operator	Oceanside Care Center, Inc.	Same
	<u>Current Stock Ownership</u>	<u>Proposed Stock Ownership</u>
	Leibel Rubin 90	Moishe Heller 90
	Estate of Abraham N. Klein 110	Avraham Weits 110
	200	200

### Character and Competence-Background

#### **Facility Reviewed**

Hamilton Park Nursing and Rehabilitation Center

9/2009 to current

#### **Individual Background Review**

**Avraham Weits** lists his current employment as Certified Financial Officer at Hopkins Center for Rehabilitation and Healthcare, Bensonhurst Center for Rehabilitation and Healthcare, Grandell Rehabilitation and Nursing Center, Oceanside Care Center and Beach Terrace Care Center. Mr. Weits was previously employed as Controller at Queens Nassau Nursing Home. Mr. Weits discloses no health facility ownership interests.

**Moishe Heller** lists his current employment as Corporate Administrator at Grandell Rehabilitation and Nursing Center, Queens Nassau Nursing Home, and Park Terrace Care Center. Mr. Heller was previously employed as an Administrator at Oceanside Care Center from 2003 to 2010. Mr. Heller holds a nursing home administrator license in good standing and discloses an ownership interest in the following nursing home:

Hamilton Park Nursing and Rehabilitation Center

9/2009 to current

### Character and Competence

No negative information has been received concerning the character and competence of the above applicants identified as new shareholders.

A review of operations at Hamilton Park Nursing and Rehabilitation Center for the period identified above reveals the following:

- A federal CMP of \$1,300 was assessed for September 25, 2009 survey findings.

### Quality Review

Provider Name	Overall	Health Inspection	MDS Quality Measures
Oceanside Care Center Inc	*	**	**
Hamilton Park Nursing and Rehabilitation Center	**	**	**

### Project Review

This application proposes to transfer 100% ownership interest (200 shares) from two withdrawing shareholders to two new shareholders. From the estate of Abraham Klein, 110 shares will be sold to Avraham Weits and Mr. Liebel Rubin is gifting his 90 shares to Moishe Heller. This transaction is in compliance with the requirements for the transfer of ownership for deceased operators as outlined in Title 10 NYCRR §401.3(b)(1) and §401.1(c).

No changes in the program or physical environment are proposed in this application.

### Conclusion

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background review indicates the applicant has met the standard for approval as set forth in Public Health Law §2801-a(3).

### Recommendation

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

## Financial Analysis

### Assignment and Assumption Agreement

The applicant has submitted an executed Assignment and Assumption Agreement for the transfer of 110 shares in the RHCf to Mr. Weits, to be effectuated upon final non-contingent approval of this application by the Public Health and Health Planning Council. The terms are summarized below:

Date:	September 15, 2016
Assignor:	Estate of Abraham N. Klein by Sara Dinah Klein (Executrix)
Assignee:	Avraham Weits
Shares Acquired:	110 shares of stock (55% ownership)
Purchase Price:	\$4,040,351
Payment of Purchase Price:	Promissory Note for the full amount executed on 9/15/2016

The promissory note provides for a 30-year term with interest computed based on the IRS Long-term Applicable Federal Rate for Quarterly Payments determined at the time of closing (1.94% as of October 2016). Interest only will be payable quarterly commencing December 31, 2016, with the principal amount due by December 31, 2046.

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 has no outstanding Medicaid liabilities as of October 13, 2016.

## Operating Budget

The applicant has submitted an operating budget, in 2016 dollars, for the first year after the transfer of 100% ownership, summarized below:

	<u>Current Year (2015)</u>		<u>Year One</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid FFS	\$248.14	\$5,528,825	\$245.09	\$5,460,913
Medicare FFS	\$672.96	3,690,501	\$681.42	3,736,929
Private Pay	\$291.45	<u>2,210,933</u>	\$280.57	<u>2,128,437</u>
Total Revenues		\$11,430,259		\$11,326,279
<u>Expenses</u>				
Operating	\$280.83	\$9,927,519	\$284.49	\$10,057,064
Capital	<u>30.87</u>	<u>1,091,110</u>	<u>30.87</u>	<u>1,091,110</u>
Total Expenses	\$311.69	\$11,018,629	\$315.36	\$11,148,174
Net Income		<u>\$411,630</u>		<u>\$178,105</u>
Patient Days		35,351		35,351
Occupancy		96.85%		96.85%
Breakeven Occupancy				95.35%

Utilization broken down by payor source during the first year after the transfer of 100% ownership is summarized below:

	<u>Current Year</u>	<u>Year One</u>
Medicaid FFS	63.03%	63.03%
Medicare FFS	15.51%	15.51%
Private Pay	21.46%	21.46%

Revenue, expense and utilization assumptions are based on current operations. The Medicare and Private Pay rates are based on the average first quarter 2016 rates experience for these payors, and the Medicaid rate is based on the facility's current 2016 Medicaid payment rate. This application is solely for a change in the composition of shareholders of an existing corporation. There will be no change in beds or operations, nor is there any change in the facility's forecasted revenues and expenses.

## Capability and Feasibility

The purchase price for Avraham Weits' 55% ownership interest is \$4,040,351. Payment of the purchase price will be via a promissory note of \$4,040,351 at the terms stated above. There is no purchase price associated with Moishe Heller's ownership interest.

Working capital requirements are estimated at \$1,858,929, which is equivalent to two months of first year expenses. The applicant will provide equity from personal resources to meet the working capital needs. Avraham Weits has submitted an affidavit indicating that he will provide equity disproportionate to his ownership interest. BFA Attachment A is the personal net worth statements of the proposed new shareholders of Oceanside Care Center, which indicates the availability of sufficient funds to meet the working capital requirement.

The submitted budget indicates a net income of \$178,105 during the first year after the transfer of 100% ownership interest. The submitted budget appears reasonable.

BFA Attachment B is the 2014 and 2015 certified financial statements of Oceanside Care Center. The facility had an average negative working capital position and an average positive stockholders position from 2014 through 2015. Also, the facility achieved an average net income of \$562,163 from 2014 through 2015. The applicant indicated that the reason for the average negative working capital position is that the facility did renovations in 2014 and 2015 and as a result, the facility incurred a sizeable accounts payable balance.

BFA Attachment D is the internal financial statement of Oceanside Care Center as of August 31, 2016. As shown, the facility had a negative working capital position and a positive stockholders position through August 31, 2016. Also, the facility achieved a net income of \$512,021 through August 31, 2016. The applicant indicated that the reason for the average negative working capital position is that the facility did renovations in 2014 and 2015 and as a result, the facility incurred a sizeable accounts payable balance.

BFA Attachment C is the financial summary of Hamilton Park Nursing and Rehabilitation Center. The facility had an average negative working capital position and an average positive net asset position from 2014 through 2015. Also, the facility achieved a net income of \$1,962,190 in 2015. The applicant indicated that the reason for the average negative working capital position is the result of a major construction project undertaken by the facility in 2013 in which the facility added 50 RHCF beds and incurred over \$5,000,000 in construction costs. As a result of the costs of expanding and improving the facility, the facility incurred a sizeable accounts payable balance.

BFA Attachment E is the internal financial statement of Hamilton Park Nursing and Rehabilitation Center as of June 30, 2016. As shown, the facility had a negative working capital position and positive retained earnings for the period. The applicant indicated that the reason for the average negative working capital position is the result of a major construction project undertaken by the facility in 2013 in which the facility added 50 RHCF beds and incurred over \$5,000,000 in construction costs. As a result of the costs of expanding and improving the facility, the facility incurred a sizeable accounts payable balance. Also, the facility achieved a net income of \$817,549 for the period through June 30, 2016.

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, approval is recommended.**

## Attachments

BFA Attachment A	Net Worth Statements of Proposed Members
BFA Attachment B	2014 -2015 Financial Summary Oceanside Care Center
BFA Attachment C	2014 -2015 Financial Summary Hamilton Park Nursing and Rehab. Center
BFA Attachment D	August 31, 2016 internal financial statements of Oceanside Care Center
BFA Attachment E	June 30, 2016 internal financial statements of Hamilton Park Nursing and Rehabilitation Center



**Project # 162092-E**  
**CNH Operating, LLC d/b/a The Chateau at Brooklyn**  
**Rehabilitation and Nursing Center**

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

**County:** Kings  
**Acknowledged:** August 5, 2016

**Executive Summary**

**Description**

CNH Operating, LLC, a New York limited liability company, requests approval to be established as the new operator of Crown Nursing Home Associates, Inc. d/b/a The Chateau at Brooklyn Rehabilitation and Nursing Center f/k/a Crown Nursing and Rehab Center, a 189-bed Article 28 Residential Health Care Facility (RHCF) located at 3457 Nostrand Avenue, Brooklyn (Kings County). Upon Public Health and Health Planning Council (PHHPC) approval of this CON application, the applicant will operate the facility under the name The Chateau at Brooklyn Rehabilitation and Nursing Center. There will be no change in beds or services provided.

On May 1, 2016, Crown Nursing Home Associates, Inc., the current operator of the RHCF, entered into an Asset Purchase Agreement (APA) with CNH Operating, LLC for the sale and acquisition of the operating interest of the RHCF, to be effective upon approval by PHHPC. The purchase price for the operating interests is \$3,500,000 plus the net of assumed accounts receivables and payables at closing, estimated at \$1,362,532 as of April 1, 2016. Concurrently, Second Haring, LLC, the real property owner, entered into a Purchase and Sale Agreement (PSA) with CNH Property, LLC to purchase the RHCF's real estate for \$27,813,450. Upon PHHPC approval, CNH Property, LLC will lease the premises to CNH Operating, LLC for a term of 35 years. There is a relationship between CNH Property, LLC and

CNH Operating, LLC in that the entities have several members in common.

Ownership of the operations before and after the requested change is as follows:

Current Operator

Crown Nursing Home Associates, Inc.	
<u>Members</u>	<u>%</u>
Dr. Jacob Dimant	10%
Dr. Rose Dimant	10%
Elliot A. Dimant	40%
Kevin B. Teitler	40%

Proposed Operator  
CNH Operating, LLC

<u>Members</u>	<u>%</u>
Devorah Freidman	43%
Sharon Einhorn	43%
Eli Schwartz	5%
Yossie Zucker	5%
Akiva Rudner	2%
Steven Sax	2%

Ownership of the real property before and after the requested change is as follows:

Current Landlord

Second Haring, LLC

<u>Members</u>	<u>%</u>
Dr. Jacob Dimant	1.0%
Dr. Rose Dimant	1.0%
Elliot A. Dimant	49.0%
Kevin B. Teitler	49.0%

Proposed Landlord  
CNH Property, LLC

<u>Members</u>	<u>%</u>
Mark Freidman	43.0%
Neil Einhorn	43.0%
Eli Schwartz	5.0%
Yossie Zucker	5.0%
Akiva Rudner	2.0%
Steven Sax	2.0%

OPCHSM Recommendation  
Contingent Approval

Need Summary

There will be no changes to beds or services at this facility. Utilization was 93.9% in 2013, 89.4% in 2014, and 87.9% in 2015. Current utilization, as of October 19, 2016 is 98.9%, with two vacant beds.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in current compliance with all rules and regulations. The individual background review indicates the proposed board members have met the standard for approval as set forth in Public Health Law §2801-a(3).

Financial Summary

There are no project costs associated with this proposal. The purchase price for the operating interests is \$3,500,000 plus the net of assumed accounts receivables and payables at closing, estimated at \$1,362,532 as of April 1, 2016. The applicant will finance the purchase of the operations via a bank loan for \$3,500,000 at 5%

interest with a five-year term and 25-year amortization. The term of the loan will be for an initial five years with the understanding that this will be a bridge-to-HUD loan. The remaining \$1,362,532 will be paid from proposed members' equity. Devorah Freidman has submitted an affidavit attesting that she is willing to contribute resources disproportionate to her ownership interest percentage to provide needed equity.

The purchase price for the real property is \$27,813,450, which will be financed with a bridge-to-HUD loan of \$25,000,000 at 5% over five years and amortized over 25 years, with the remaining \$2,813,450 to be paid with equity from the proposed members. A \$2,000,000 deposit for the property has been paid and is being held in escrow.

M&T Bank has provided a letter of interest for the respective operating and realty financings at the above stated terms. Proposed members Yossie Zucker (operations and realty) and Mark Freidman (realty) have submitted affidavits attesting that if HUD financing is not available after the five years, a term loan for the remaining mortgages will be obtained.

The projected budget is as follows:

Revenues	\$21,137,900
Expenses	<u>20,542,893</u>
Gain	\$595.007

## 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 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)
2. 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)
3. 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)
4. Submission of an executed lease agreement, acceptable to the Department of Health. [BFA]
5. Submission of an executed loan commitment for the purchase of the operations, acceptable to the Department of Health. [BFA]
6. Submission of an executed loan commitment for the purchase of the realty, acceptable to the Department of Health. [BFA]
7. Submission of the applicant's fully executed lease agreement, acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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. 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

**December 8, 2016**

# Need Analysis

## Background

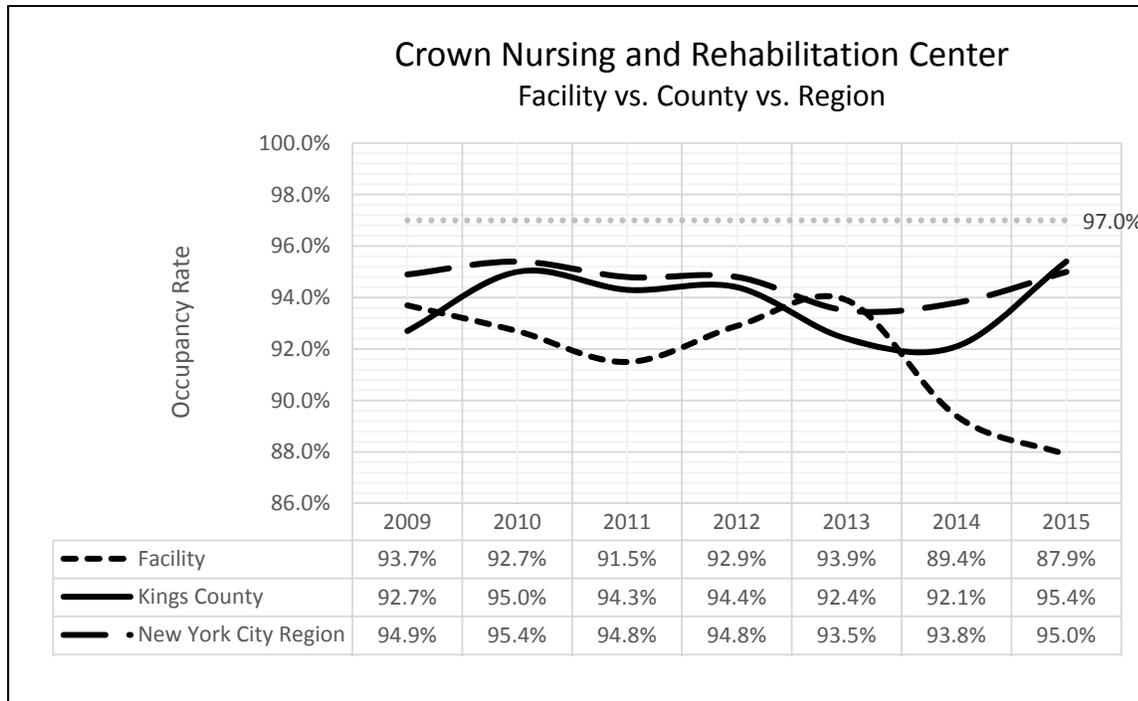
CNH Operating, LLC d/b/a The Chateau at Brooklyn Rehabilitation and Nursing Center, seeks approval to become the established operator of Crown Nursing Home Associates, Inc., a 189-bed Article 28 residential health care facility (RHCF) located at 3457 Nostrand Avenue, Brooklyn, 11229 in Kings County.

## Analysis

There is currently a need for 9,715 beds in the New York City Region, as indicated in the following table:

<b>2016 Projected Need</b>	51,071
<b>Current Beds</b>	41,644
<b>Beds Under Construction</b>	-288
<b>Total Resources</b>	41,356
<b>Unmet Need</b>	9,715

The overall occupancy for Kings County was 95.4% for 2015 and was 95% for the entire region, as indicated in the following chart:



According to the applicant, from 2012 to 2015, the facility underwent substantial renovations which interrupted services, resulting in rooms being unavailable for occupancy. The renovations lasted 36 months and were completed in phases. This work included repairs of the exterior façade due to damage from Superstorm Sandy. Other work included:

- Nurse call system replacement;
- Cable television wiring of the entire building;
- Security cameras installation;
- Elevator upgrade (done in phases and took 18 months to complete);
- Update and one-for-one replacement of finishes of the first floor (29-bed unit) requiring closure of rooms on a rotating basis;
- Updating and renovations of the lobby and administrative offices;

- Renovations to the HVAC systems, which are located along the front entry way of the building and impaired access to the building;
- Boiler replacement requiring work on heating units in rooms;
- Fire alarm upgrades;
- Closure of the sixth floor gym for a prolonged period to replace roof which resulted in water damage and replacement of the entire ceiling system, along with renovations to the current rehab space;
- Wiring of the building for IT installation of a new EMR and work kiosks;
- Exterior work including new waterproofing; and
- Inspection and repairs of building envelope impairing access as required periodically by the City of New York.

While this work was being performed, administration was working on improving quality by building new robust systems and services to reduce re-admissions. These projects and practices have effectively led to an increase in referrals.

The facility's ability to accept difficult-to-serve residents contributes to their high case mix, which is currently 1.25 overall and 1.20 for Medicaid-only residents. The facility also treats higher acuity residents without hospital assistance, as indicated by its low hospital readmission rate.

In addition, the facility has developed strong working relationships with local area hospitals that help ensure the prompt discharge of patients appropriate for skilled nursing care. The clinical operations team at the RHCF continually works to monitor and improve functions that significantly affect resident outcomes.

#### 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 Nursing's Medicaid admissions of 19.6% in 2013 did not exceed Kings County's 75% rates of 24.8% in 2013. Crown Nursing's Medicaid admissions of 69.9% in 2014 exceeded Kings County's 75% rate of 22.2% in 2014.

#### Conclusion

Contingent approval of this application will maintain a continued need of skilled nursing services for the Medicaid population as well as the community in which it serves.

#### Recommendation

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

## Program Analysis

### Facility Information

	<b>Existing</b>	<b>Proposed</b>
Facility Name	The Chateau at Brooklyn Rehabilitation and Nursing Center	The Chateau at Brooklyn Rehabilitation and Nursing Center
Address	3457 Nostrand Avenue Brooklyn, NY	Same
RHCF Capacity	189	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Corporation	Limited Liability Company
Class of Operator	Proprietary	Proprietary
Operator	Crown Nursing Home Associates, Inc.	CNH Operating LLC  <u>Members</u> *Devorah Friedman      43.0% *Sharon Einhorn        43.0% Eliezer Schwartz        5.0% Yossie Zucker            5.0% Akiva Rudner             2.0% Steven Sax                 2.0%  <i>*Managing Member</i>

### Character and Competence - Background

#### Facilities Reviewed

##### Nursing Homes

Sans Souci Rehabilitation & Nursing Center	10/2009 to present
Dumont Center for Rehabilitation	08/2010 to present
Bellhaven Center for Rehabilitation and Nursing Center	03/2010 to present
Ramapo Manor Center for Rehabilitation & Nursing	07/2012 to present
St. James Rehabilitation & Healthcare Center	08/2012 to present
The Grand Pavilion for Rehabilitation at Rockville Center	08/2012 to present
The Riverside	08/2013 to present
Cortlandt Healthcare	03/2014 to present
The Chateau at Brooklyn Rehabilitation and Nursing Center	01/2015 to present
The Phoenix Rehabilitation and Nursing Center	01/2015 to present
The Enclave at Port Chester Rehabilitation and Nursing Center	7/2016 to present
The Emerald Peek Rehab & Nursing Center	4/2016 to present
Chatham Hills Subacute Care Center (NJ)	2/2015 to present

<b>Provider Name</b>	<b>Overall</b>	<b>Health Inspection</b>	<b>Quality Measures</b>
Sans Souci Rehabilitation and Nursing Center	****	****	****
Dumont Center for Rehabilitation and Nursing	*	*	****
Bellhaven Nursing & Rehab Center	****	****	*****
Ramapo Manor Ctr For Rehab & Nursing	***	***	***
St James Rehab & Health Care Center	****	****	**
The Grand Pavilion For R & N At Rockville Centre	**	***	**

Provider Name	Overall	Health Inspection	Quality Measures
The Riverside	***	**	*****
Cortlandt Healthcare LLC	**	***	*
Crown Heights Center For Nursing & Rehabilitation	*****	***	*****
The Phoenix Rehabilitation and Nursing Center	****	****	*****
The Enclave at Port Chester Rehab and Nursing Ctr	***	****	**
The Emerald Peek Rehab and Nursing Center	*****	****	*****

### **Individual Background Review**

**Devorah Friedman** holds a New York State speech language pathologist license and is considered to be in good standing. She is currently employed as the owner/operator of Bellhaven Center for Rehabilitation and Nursing. Ms. Friedman discloses the following ownership interests in health facilities:

Sans Souci Rehabilitation & Nursing Center	10/2009 to present
Dumont Center for Rehabilitation	08/2010 to present
Bellhaven Center for Rehabilitation and Nursing Center	03/2010 to present
The Enclave at Port Chester Rehabilitation and Nursing Center	08/2012 to present
The Grand Pavilion for Rehabilitation at Rockville Center	08/2012 to present
The Riverside	08/2013 to present
Cortlandt Healthcare	03/2014 to present
The Phoenix Rehabilitation and Nursing Center	01/2015 to present

**Sharon Einhorn** discloses no employment history over the last 10 years. Ms. Einhorn discloses the following ownership interests in health facilities:

Dumont Center for Rehabilitation	08/2010 to present
Bellhaven Center for Rehabilitation and Nursing Center	03/2010 to present
Ramapo Manor Center for Rehabilitation & Nursing	07/2012 to present
St. James Rehabilitation & Healthcare Center	08/2012 to present
The Grand Pavilion for Rehabilitation at Rockville Center	08/2012 to present
The Riverside	08/2013 to present
Cortlandt Healthcare	03/2014 to present
The Phoenix Rehabilitation and Nursing Center	01/2015 to present

**Eliezer Schwartz** is a sales executive at Qualmed Supplies, a janitorial supply company in Linden, New Jersey. Previously he was a sales representative for Superior Laundry, a commercial laundry service located in Brooklyn, New York. Mr. Schwartz discloses the following health facility ownership interest:

Cortlandt Healthcare	03/2014 to present
The Enclave at Port Chester Rehabilitation and Nursing Center	7/2016 to present
Chatham Hills Subacute Care Center (NJ)	2/2015 to present

**Yossie Zucker** is a New York State certified public accountant with license currently inactive. Mr. Zucker is the owner and president of CareRite Services LLC, a financial consulting firm for nursing homes located in Lakewood, New Jersey. Mr. Zucker discloses the following ownership interests in health facilities:

Ramapo Manor Center for Rehabilitation and Nursing	07/2012 to present
St. James Rehabilitation and Healthcare Center	08/2012 to present
The Grand Pavilion for Rehab and Nursing at Rockville Center	08/2012 to present
The Riverside	08/2013 to present
Cortlandt Healthcare	03/2014 to present
The Chateau at Brooklyn Rehabilitation and Nursing Center	01/2015 to present

**Akiva Rudner** held a New York State nursing home administrator's license which is currently inactive. He currently serves as Chief Operating Officer at CareRite LLC, a nursing home consulting service. Mr. Rudner discloses the following ownership interests in health facilities:

St. James Rehabilitation & Healthcare Center	08/2012 to present
The Chateau at Brooklyn Rehabilitation and Nursing Center	01/2015 to present

**Steven Sax** has been the Director of Clinical Reimbursement and Development at CareRite Services, LLC since July 2012. Previously, Mr. Sax was the assistant administrator to the Sans Souci Rehabilitation and Nursing Center in Yonkers, New York. Steven Sax discloses the following ownership interest in health facilities:

St. James Rehabilitation and Healthcare Center	08/2012 to present
Cortlandt Healthcare	03/2014 to present

**Solomon Reichberg** is the Director of Marketing at Five Star Staffing Services, Inc., a health care staffing company located in Brooklyn, New York. Previously, he was a sales representative at Approved Storage and Waste Hauling, Inc., a medical waste hauler based out of Mount Vernon, New York. Mr. Reichberg discloses no ownership interest in health facilities.

#### Character and Competence - Analysis

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

A review of Sans Souci Nursing Home for the period reveals the following:

- The facility was fined \$10,000 pursuant to a Stipulation and Order for surveillance findings on February 11, 2011. Deficiencies were found under 10 NYCRR 415.12(j): Quality of Care – Hydration.

Since there were no other enforcements, the requirements for approval have been met as set forth in Public Health Law §2801-1(3).

A review of Dumont Center for Rehabilitation and Nursing Care for the period reveals the following:

- The facility was fined \$18,000 pursuant to a Stipulation and Order for surveillance findings on April 13, 2015. Deficiencies were found under 10 NYCRR 415.3(e)(1)(ii) Resident Rights: Advance Directives, 415.5(g) Quality of Life: Social Service, 415.12 Quality of Care: Highest Practical Potential, 415.26 Administration: 490 Administration, and 415.15(a) Administration: Medical Director.
- A federal CMP of \$45,070 was issued for the Immediate Jeopardy on 4/13/15 and is pending appeal.

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.

A review of Bellhaven Center for Rehabilitation and Nursing, Ramapo Manor Center for Rehabilitation & Nursing, St. James Rehabilitation and Healthcare Center, The Grand Pavilion for Rehabilitation at Rockville Center, The Riverside, Cortlandt Healthcare, Crown Center for Nursing and Rehabilitation (The Chateau at Brooklyn Rehabilitation and Nursing Center as of 7/28/16), The Phoenix Rehabilitation and Nursing Center and The Enclave at Port Chester for the time periods identified above reveals that there were no enforcements.

A review of Chatham Hills Subacute Care Center in NJ reveals there were no enforcements for the time period reviewed. This information was received from the State of New Jersey, and from a review of the CMS website.

#### Project Review

No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application.

## Conclusion

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in current compliance with all rules and regulations. The individual background review indicates the proposed board members have met the standard for approval as set forth in Public Health Law §2801-a(3).

## Recommendation

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

# Financial Analysis

## Asset Purchase Agreement

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

Date:	May 1, 2016
Purchaser:	CNH Operating, LLC
Seller:	Crown Nursing Home Associates, Inc.
Purchased Assets:	All assets used in the operation of the facility. Facilities; equipment; supplies and inventory; prepaid expenses; documents and records; assignable leases, contracts, licenses and permits; telephone numbers, fax numbers and all logos; resident trust funds; deposits; accounts and notes receivable; cash, deposits and cash equivalents.
Excluded Assets:	Any security, vendor, utility or other deposits with any Governmental Entity; any refunds, debtor claims, third-party retroactive adjustments and related documents prior to closing, and personal property of residents.
Purchase Price:	\$3,500,000 plus the net value of assumed accounts receivables and payables at closing, estimated at \$1,362,532 as of April 1, 2016, current estimated totaling of \$4,862,532.
Payment of Purchase Price:	\$4,862,532 due at time of closing.

The purchase price for the operations is proposed to be satisfied as follows:

Cash Equity (due at closing)	\$1,362,532
Bank Loan (5-year term and 25-year amortization, bridge-to-HUD, 5% interest)	<u>\$3,500,000</u>
Total	\$4,862,532

M&T Bank has submitted a letter of interest at the stated terms. Proposed operating member Yossie Zucker submitted an affidavit attesting that if HUD financing is not available after the five years, a term loan for the remaining mortgage will be obtained. Devorah Freidman has submitted an affidavit attesting to contribute resources disproportionate to her ownership interest percentage to provide needed equity.

Department staff note that the APA states the purchaser is obligated to contribute to the pension plan as of May 1, 2016, in the event that current operations do not provide the necessary cash flow. As of September 21, 2016, no contributions have been made to the pension plan since current operations have been able to sustain contributions to the pension plan.

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. Currently, there are no outstanding Medicaid overpayment liabilities.

**Purchase and Sale Agreement for the Realty**

The applicant has submitted an executed real estate PSA 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:	May 1, 2016
Seller:	Second Haring, LLC
Buyer:	CNH Property, LLC
Property Purchased:	3457 Nostrand Avenue, Brooklyn, New York 11229
Purchase Price:	\$27,813,450
Payment of Purchase Price:	\$2,000,000 paid and held in escrow \$25,813,450 due at time of closing.

The purchase price for the realty is proposed to be satisfied as follows:

Cash Equity (paid, held in escrow)	\$2,000,000
Additional Cash Equity due at Closing	\$813,450
Bank Loan (5-year term, 25-year amortization, bridge-to-HUD, 5% interest)	<u>\$25,000,000</u>
Total	<u>\$27,813,450</u>

M&T Bank has provided a letter of interest to finance a bridge-to-HUD mortgage for the realty at the above stated terms. Proposed realty member Mark Freidman submitted an affidavit attesting that if HUD financing is not available after the five years, a term loan for the remaining mortgage will be obtained. Neil Einhorn and Mark Freidman have contributed a \$2,000,000 deposit in escrow, collectively, with the remaining cash of \$813,450 to be paid through equity from the proposed members of CNH Property, LLC.

BFA Attachment F is the PSAs for two vacant parcels of land (Facility Land) located at 3457 Nostrand Avenue, Brooklyn, which have separate agreements under this application. The two parcels will be sold and transferred from Second Haring, LLC to CNH Property, LLC under the PSA.

**Lease Agreement**

Facility occupancy is subject to a draft lease agreement, the terms of which are summarized as follows:

Premises:	A 189-bed RHCF located at 3457 Nostrand Avenue, Brooklyn, New York 11229
Landlord:	CNH Property, LLC
Lessor:	CNH Operating, LLC
Terms:	35 years commencing on execution of the lease.
Rental:	Amount equal to debt service due under the mortgages, plus additional rent to include HUD-related costs and reserve for replacement, which is \$2,780,000 annually (\$231,666.67/month)
Provisions:	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 the operating entity.

## Operating Budget

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

	<u>Per Diem</u>	<u>Current Year</u>	<u>Per Diem</u>	<u>First Year</u>
<u>Revenues</u>				
Medicaid	\$216.49	\$9,327,542	\$244.67	\$10,805,600
Medicare	\$671.66	4,643,840	\$663.62	4,440,300
Commercial	\$333.53	3,190,563	\$350.01	4,918,400
Private Pay	\$585.94	<u>615,240</u>	\$505.03	<u>1,013,600</u>
Total Revenues		\$17,777,185		\$21,177,900
<u>Expenses</u>				
Operating	\$282.09	\$17,098,687	\$258.04	\$17,266,800
Capital	<u>8.59</u>	<u>520,849</u>	<u>48.96</u>	<u>3,276,093</u>
Total Expenses	\$290.68	\$17,619,536	\$307.00	\$20,542,893
Net Income		<u>\$157,649</u>		<u>\$595,007</u>
Total Patient Days		60,615		66,914
Occupancy %		87.87%		97.0%

The following is noted with respect to the submitted budget:

- The current year reflects the facility's 2015 payor and 2015 RHCF-4 cost report information. Historical utilization for base year 2015 was 87.87%.
- The historical utilization from January 1, 2016 to August 31, 2016 is 94.14%.
- For budget year one, Medicaid revenues are projected based on the current operating and capital components of the facility's 2016 Medicaid FFS rate plus assessments. Medicare and Private Pay rates are based on average per diems experienced during 2016.
- The increase in capital between current year and first year is due to the \$2,780,000 annual rent expense per the proposed lease arrangement. The lease amount is equal to the debt service payments due under the mortgages, plus additional rent to include HUD-related costs and reserve for replacement.
- Breakeven utilization is 94.09% for the first year.
- Utilization by payor source is as follows:

	<u>Current Year</u>	<u>Year One</u>
Medicaid	66.5%	66.0%
Medicare	7.7%	10.0%
Private/Other	25.8%	24.0%

## Capability and Feasibility

The purchase price for the operation is \$3,500,000 plus the net of assumed accounts receivables and payables at closing, estimated at \$1,362,532 as of April 1, 2016. The applicant will finance the purchase of the operations via a bank loan for \$3,500,000 at 5% interest with a five-year term and 25-year amortization. The term of the loan will be for an initial five years with the understanding that this will be a bridge-to-HUD loan. M&T Bank has provided a letter of interest at the stated terms. The remaining \$1,362,532 will be paid with equity from the proposed members. Devorah Freidman has submitted an affidavit stating she is willing to contribute resources disproportionate to her ownership interest percentage to provide needed equity.

The purchase price of the real property is \$27,813,450 will be financed with a bridge-to-HUD loan of \$25,000,000 at 5% over 5 years and amortized over 25 years. The remaining \$2,813,450 will be paid from the proposed members' equity. A contract deposit of \$2,000,000 for the property has already been paid and is being held in escrow.

M&T Bank has provided a letter of interest for the realty financing at the stated terms. Proposed members Yossie Zucker (operations and realty) and Mark Freidman (realty) have submitted affidavits

attesting that if HUD financing is not available after the five years, a term loan for the remaining mortgages will be obtained.

The working capital requirement is \$3,423,816 based on two months of first year's expenses and will be satisfied from existing facility funds and proposed members' equity. The seller is assuming certain current assets and current liabilities through the APA, therefore working capital is calculated as follows; Cash, accounts receivable, inventory and prepaid expenses (\$5,951,966) less accounts payable, due third party payors, accrued payroll and accrued expenses (\$3,760,078 as of May 31, 2016) for a balance of \$2,191,888. The remaining \$1,231,928 will be from the proposed members' equity. Devorah Freidman has submitted an affidavit stating that she is willing to contribute resources disproportionate to her ownership percentage. BFA Attachment A, net worth of the proposed members of CNH Operating, LLC, shows sufficient equity levels for working capital. BFA Attachment D is the pro-forma balance sheet as of the first day of operation, which indicates a positive members' equity of \$4,863,000. It is noted that assets will change to include \$1,231,928 in cash for working capital, thus members' equity would be \$6,094,928.

The submitted budget indicates that net income of \$595,007 will be generated for the first year. BFA Attachment E is the budget sensitivity analysis based on current utilization of the facility for the last five months as of May 31, 2016, which shows the budgeted revenues would decrease by \$209,408 resulting in a net income in year one of \$385,599. The facility has shown an increase in Medicare Rehab and Private Pay residents in 2015 and over the past five months, which is shown in the increase in Medicaid case mix of 1.1019 in 2014 to 1.2011 in 2016. Also, the facility's utilization has been maintained at an average of 96.63% over the additional three-month period from June 1 to August 31, 2016. 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 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 NH revenues through the transition period.

BFA Attachment B, financial summary of Crown Nursing and Rehab Center, indicates that the facility has experienced negative working capital in 2013-2014, maintained positive working capital in 2015, maintained a positive equity position and generated an average annual net income of \$324,111 for the 2013-2015 period shown, and a net operating income of \$749,731 as of May 31, 2016. The 2013-2014 negative working capital is due to higher than expected accounts payable, whereas the facility has worked toward paying down these payables in 2015 and 2016 by improving administrative functions and changing the admission processes.

BFA Attachments C, financial summary of the proposed members' affiliated RHCs, shows the facilities have maintained positive net income from operations for the periods shown with the exception of The Grand Pavilion for Rehab At Rockville and Cortlandt Healthcare in 2014, and The Grove at Valhalla in 2015, which was due to the occurrence of the change of ownership in those years. The following years show positive net operating income.

Based on the preceding and subject to 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	CNH Operating, LLC, Proposed Members Net Worth
BFA Attachment B	Financial Summary, Crown Nursing and Rehab
BFA Attachment C	Affiliated Residential Health Care Facilities
BFA Attachment D	Pro Forma Balance Sheet
BFA Attachment E	Budget Sensitivity Analysis
BFA Attachment F	Vacant Facility Land Agreements



Project # 162120-E  
170 West Avenue Operating Company, LLC d/b/a  
Elderwood of Lakeside at Brockport

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

**County:** Monroe  
**Acknowledged:** August 17, 2016

**Executive Summary**

**Description**

170 West Avenue Operating Company, LLC, d/b/a Elderwood of Lakeside at Brockport, a New York limited liability company, requests approval to be established as the new operator of Lakeside-Beikirch Care Center, Inc., a 120-bed, voluntary not-for-profit, Article 28 residential health care facility (RHCF) located at 170 West Avenue, Brockport (Monroe County). The sole member of 170 West Avenue Operating Company, LLC is 170 West Avenue Operating Holdco, LLC, whose members are Warren Cole (50%) and Jeffrey Rubin (50%). Upon approval of this application, the name of the facility will be Elderwood of Lakeside at Brockport. A separate entity, 170 West Avenue, LLC, will acquire the rights to the real property. There will be no change in beds or services provided.

On February 4, 2016, Lakeside-Beikirch Care Center, Inc., the current RHCF operator, entered into an Asset Purchase Agreement (APA) with Post Acute Partners Acquisition, LLC (PAP), which is owned equally by Mr. Cole and Dr. Rubin, to sell the operating assets and certain property assets of the RHCF for \$11,500,000. Upon Public Health and Health Planning Council approval, PAP will assign the rights and title under the APA to 170 West Avenue Operating Company, LLC and 170 West Avenue, LLC, respectively. As part of the APA, PAP entered into a Ground Lease with the University of Rochester to secure site control of the facility. 170 West Avenue, LLC will enter into a Lease Agreement with 170 West Avenue Operating Company, LLC, subject to the overriding Ground Lease. There is a relationship between 170

West Avenue, LLC and 170 West Avenue Operating Company, LLC, in that Warren Cole and Jeffrey Rubin are the managing members of 170 West Avenue Operating Company, LLC, each with a 50% indirect membership interest, and are also the 50% members and managers of 170 West Avenue, LLC.

Ownership of the operations before and after the requested change is as follows:

Current Operator  
Lakeside-Beikirch Care Center, Inc. 100%

Proposed Operator  
170 West Avenue Operating Company, LLC  
Members  
170 West Avenue Operating Holdco, LLC 100%  
Warren Cole (50%)  
Jeffrey Rubin (50%)

Warren Cole and Jeffery Rubin each have a 50% ownership interest in eleven New York RHCFs. BFA Attachment E presents the financial summaries of the proposed members' affiliated RHCFs.

Concurrently under review, the applicant members of 170 West Avenue Operating Company, LLC are seeking approval to be established as the new operator of Heritage Commons Residential Health Care (CON 162229).

OPCHSM Recommendation  
Contingent Approval

Need Summary

There will be no changes to beds or services at this facility. Lakeside – Beikirch Care Center, Inc.'s utilization was 91.1% in 2013, 96.2% in 2014, and 92.0% in 2015. Current utilization, as of September 28, 2016 is 93.3%, with eight vacant beds.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background 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

PAP agreed to acquire the RHCF's operations and certain property assets (furniture and equipment) for \$11,500,000. The purchase price will be funded by \$2,300,000 in members' equity and a \$9,200,000 loan at 6% interest for 5-years plus an additional five years at the borrower's option with a 10-year amortization period. Capital Funding, LLC has provided a letter of interest for the loan at the stated terms. PAP will assign its rights and title to the RHCF's operations and real property to 170 West Avenue Operating Company, LLC and 170 West Avenue, LLC, respectively, for \$10. There are no project costs associated with this proposal. The projected budget is as follows:

Revenues	\$13,162,107
Expenses	<u>13,143,878</u>
Gain/(Loss)	\$18,229

## Recommendations

Health Systems Agency

The Finger Lakes HSA recommends approval of this project.

Office of Primary Care and Health Systems Management

**Approval contingent upon:**

1. 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)
2. 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)
3. 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
4. Other factors as determined by the applicant to be pertinent. (RNR) Submission of an executed Assignment of Rights, acceptable to the Department of Health. [BFA]
5. Submission of an executed Building Lease, acceptable to the Department of Health. [BFA]
6. Submission of an executed Ground Lease, acceptable to the Department of Health. [BFA]
7. Submission of executed Administrative Services Agreement, acceptable to the Department of Health. [BFA]
8. Submission of an executed loan commitment, acceptable to the Department of Health. [BFA]
9. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
10. Submission of a photocopy of an executed and completed facility lease agreement, acceptable to the Department. [CSL]
11. Submission of a photocopy of the applicants amended and completed operating agreement, which is acceptable to the Department. [CSL]
12. Submission of a photocopy of the applicants amended and completed articles of organization, which is acceptable to the Department. [CSL]
13. Submission of a photocopy of the applicants amended and completed assignment of rights, which is acceptable to the Department. [CSL]
14. Submission of a photocopy of the certificate of authority to do business in New York State by 170 West Avenue Operating Holdco, LLC, which is acceptable to the Department. [CSL]

15. Submission of a photocopy of 170 West Avenue Operating Holdco, LLCs amended and completed operating agreement, which is acceptable to the Department. [CSL]
16. Submission of a fully completed administrative services agreement, which is acceptable to the Department. [CSL]
17. Submission of a photocopy of 170 West Avenue Operating Holdco, LLCs amended and completed articles of organization, which is acceptable to the Department. [CSL]
18. Submission of a list providing the name, membership interest and percentage ownership interest in the 2nd level member and indirect ownership percentage in the Article 28 LLC, which is acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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. 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  
**December 8, 2016**

# Need Analysis

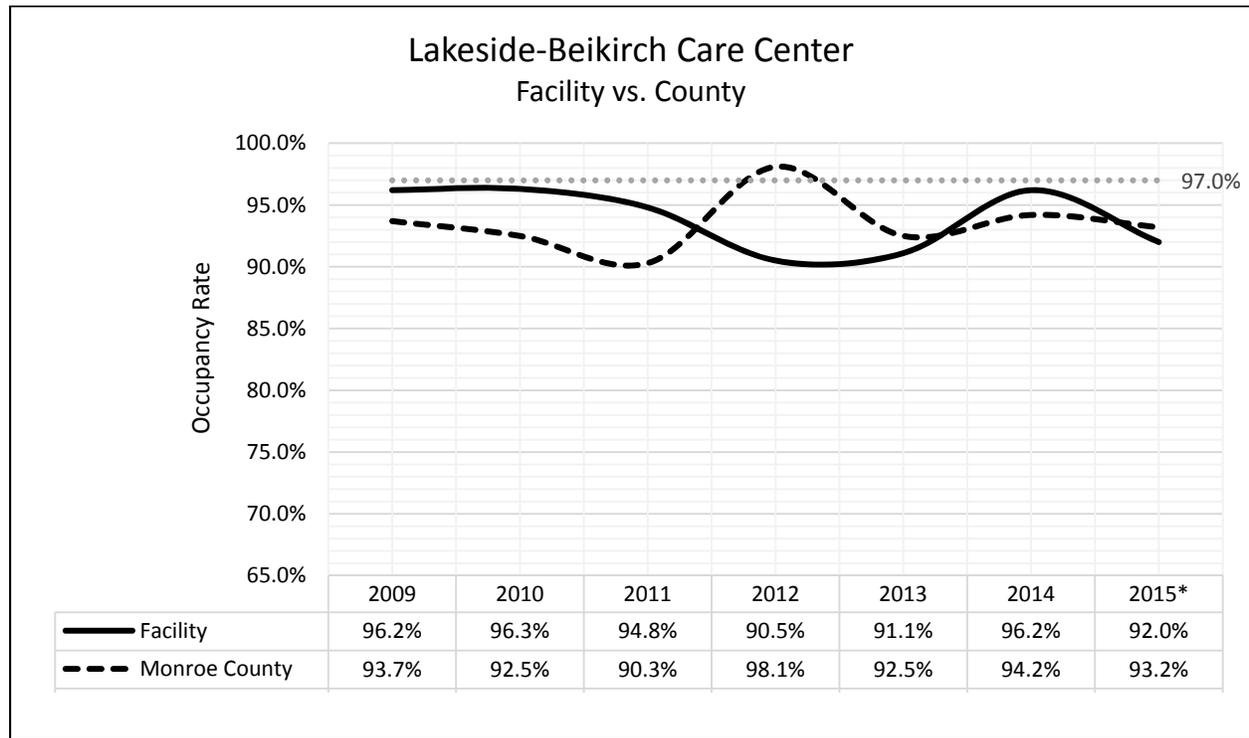
## Project Description

170 West Avenue Operating Company, LLC seeks approval to become the established operator of Lakeside – Beikirch Care Center, Inc., a 120-bed Article 28 residential health care facility (RHCF) located at 170 West Avenue, Brockport in Monroe County. Upon approval of this application, the name of the facility will be changed to Elderwood of Lakeside at Brockport.

## Analysis

There is currently a surplus of 941 beds in Monroe County as indicated in the following table:

<b>2016 Projected Need</b>	4,167
<b>Current Beds</b>	5,142
<b>Beds Under Construction</b>	-34
<b>Total Resources</b>	5,108
<b>Unmet Need</b>	-941



\*2015 unaudited; facility reported data

The overall occupancy for Monroe County was 94.2% for 2014. Lakeside-Beikirch's utilization was 91.1% in 2013, 96.2% in 2014, and 92.0% in 2015. Current utilization, as of September 28, 2016, is 93.3%, with eight vacant beds. While current utilization is low, it should be noted that overall utilization for 2016 at this facility is 95.0%.

According to the applicant, the low utilization was mostly attributable to multiple changes in the position of Administrator during 2013-2015. In April of 2013, Lakeside Memorial Hospital, which is part of Lakeside Health System (the same health system as this facility) closed. The hospital was attached to this facility, and as a primary referring source to the nursing home, its closure negatively impacted Lakeside-Beikirch's admissions.

As stated previously, overall utilization for 2016 is 95.0%. The facility indicates it was able to increase utilization through a strategic marketing plan. The plan was executed in order to reverse the public perception that Lakeside-Beikirch was no longer in operation. As part of this plan, Lakeside-Beikirch hired an admissions nurse during the last quarter of 2015 whose responsibility was to decrease the turnaround time from referral to acceptance. This key step allowed the facility to be more responsive to the referring sources. In April, 2016, the current Administrator was hired and began reaching out to the community, strengthening relationships with Unity Hospital, The Landing Assisted Living, Highland Hospital, and Strong Memorial Hospital.

The applicant noted the following plan to increase utilization:

- A key component of the strategic marketing plan is retention of the admissions nurse.
- The applicant also plans to enhance the marketing plan by continuing to expand referral sources in the community. The applicant plans to work closely with local health care and social services providers, including hospitals, adult care facilities, assisted living programs, senior citizen centers, religious organizations, community centers and the Monroe County Department of Social Services in an effort to cultivate and further strengthen relationships.
- In addition, the applicant will focus on ensuring access to higher-acuity, short-term care needed by the residents of the community. Short-term postsurgical care will be provided with the expectation of returning to "community" living (home).
- It is expected that the facility will attract an increasing number of managed long term care plan (MLTCP) contracts;
- Implement programs and services designed to facilitate DSRIP initiatives to prevent avoidable hospitalizations, reduce hospital admissions, and provide a resource to enable timely discharges from hospitals for patients needing skilled nursing facility care.

#### 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.

Lakeside-Beikirch's Medicaid admissions of 21.9% in 2013 and 21.3% in 2014 exceeded Monroe County's 75% rates in 2013 and 2014 of 12.8% and 15.5%, respectively.

#### Conclusion

Contingent approval of this application will maintain a needed resource in Monroe County.

#### Recommendation

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

## Program Analysis

### Facility Information

	Existing	Proposed
Facility Name	Lakeside-Beikirch Care Center, Inc.	Elderwood of Lakeside at Brockport
Address	170 West Avenue Brockport	Same
RHCF Capacity	120	Same
ADHC Program Capacity	N/A	N/A
Type of Operator	Inc.	Limited Liability Company
Class of Operator	Not for Profit	Proprietary
Operator	Lakeside-Beikirch Care Center, Inc.	170 West Avenue Operating Company, LLC  <u>Members</u> 170 West Avenue Operating Holdco, LLC 100.00% Warren Cole (50.00%) Jeffrey Rubin (50.00%)

### Character and Competence - Background

#### Facilities Reviewed

##### NYS 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
Elderwood at Hornell	04/12/16 to present
Elderwood at Uihlein at Lake Placid	10/04/16 to present

##### NYS Adult Home/Enriched Housing Program

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
Tonawanda Manor	02/2016 to present
McCauley Manor at MercyCare	04/2016 to present

##### NYS Licensed Home Care Agency

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
Elderwood Assisted Living at Tonawanda	04/2016 to present

<u>NYS Licensed Pharmacy</u>		
Woodmark Pharmacy of New York, LLC		07/2013 to present
<u>Alabama</u>		
Laurelton Rehabilitation and Nursing Center	SNF	10/2006-5/2008
<u>California</u>		
Care Alternatives of California	HOS	07/2005-10/2009
<u>Connecticut</u>		
Danbury Health Care Center	SNF	07/2005-10/2009
Darien Health Care Center	SNF	07/2005- 2007
Golden Hill Health Care Center	SNF	07/2005-10/2009
Long Ridge of Stamford	SNF	07/2005-10/2009
Newington Health Care Center	SNF	07/2005-10/2009
River Glen Health Care Center	SNF	07/2005-10/2009
The Highlands Health Care Center	SNF	07/2005-10/2009
West River Health Care Center	SNF	07/2005-10/2009
Westport Health Care Center	SNF	07/2005-10/2009
Wethersfield Health Care Center	SNF	07/2005-10/2009
Partners Pharmacy of Connecticut	RX	07/2005-10/2009
<u>Kansas</u>		
Care Alternatives of Kansas	HOS	07/2005-10/2009
<u>Maryland</u>		
Montgomery Village Health Care Center	SNF	07/2005-10/2009
<u>Massachusetts</u>		
Brookline Health Care Center	SNF	07/2005-10/2009
Calvin Coolidge Nursing & Rehab Center	SNF	07/2005-10/2009
Cedar Hill Health Care Center	SNF	07/2005-10/2009
Concord Health Care Center	SNF	07/2005-10/2009
Essex Park Rehabilitation & Nursing Center	SNF	07/2005-10/2009
Holyoke Health Care Center	SNF	07/2005-10/2009
Lexington Health Care Center	SNF	07/2005-10/2009
Lowell Health Care Center	SNF	07/2005-10/2009
Milbury Health Care Center	SNF	07/2005-10/2009
New Bedford Health Care Center	SNF	07/2005-10/2009
Newton Health Care Center	SNF	07/2005-10/2009
Peabody Glen Health Care Center	SNF	07/2005-10/2009
Redstone Health Care Center	SNF	07/2005-10/2009
Weymouth Health Care Center	SNF	07/2005-10/2009
Wilmington Health Care Center	SNF	07/2005-10/2009
Care Alternatives of Massachusetts	HOS	07/2005-10/2009
Partners Pharmacy of Massachusetts	SNF	07/2005-10/2009
Woodmark Pharmacy of Massachusetts	RX	06/2013- present
<u>Michigan</u>		
Grand Blanc Rehabilitation & Nursing Center	SNF	10/2006-10/2009
<u>Missouri</u>		
Care Alternatives of Missouri	HOS	07/2005-10/2009
Cliffview at Riverside Rehab & Nursing Center	SNF	10/2006-05/2008
Partners Pharmacy of Missouri	RX	07/2005-10/2009

New Jersey

Bergen Care Home Health	HHA	2007-10/2009
Bergen Care Personal Touch	HHA	2007-10/2009
Care Alternatives of New Jersey	HOS	07/2005-10/2009
Care One at Dunroven	SNF	07/2005-10/2009
Care One at East Brunswick	SNF	07/2005-10/2009
Care One at Evesham	SNF	07/2005-10/2009
Care One at Evesham Assisted Living	ALF	10/2007-10/2009
Care One at Ewing	SNF	07/2005-10/2009
Care One at Hamilton	SNF	07/2005-10/2009
Care One at Holmdel	SNF	07/2005-10/2009
Care One at Jackson	SNF	07/2005-10/2009
Care One at King James	SNF	07/2005-10/2009
Care One at Livingston	SNF	09/2005-10/2009
Care One at Livingston	ALF	09/2005-10/2009
Care One at Madison Avenue	SNF	07/2005-10/2009
Care One at Moorestown	SNF	07/2005-10/2009
Care One at Moorestown	ALF	07/2005-10/2009
Care One at Morris	SNF	07/2005-10/2009
Care One at Morris Assisted Living	ALF	07/2005-10/2009
Care One at Pine Rest	SNF	07/2005-10/2009
Care One at Raritan Bay MC	LTA	07/2005-10/2009
Care One Harmony Village at Moorestown	SNF	07/2005-10/2009
Care One at Teaneck	SNF	04/2007-10/2009
Care One at The Cupola	SNF	07/2005-10/2009
Care One at The Highlands	SNF	07/2005-10/2009
Care One at Valley	SNF	07/2005-10/2009
Care One at Wall	SNF	07/2005-10/2009
Care One at Wayne	SNF/ALF	07/2005-10/2009
Care One at Wellington	SNF	07/2005-10/2009
Ordell Health Care Center	SNF	07/2005-10/2009
Somerset Valley Rehabilitation and Nursing	SNF	10/2006-10/2009
South Jersey Health Care Center	SNF	07/2005-10/2009
Woodcrest Health Care Center	SNF	07/2005-10/2009
Care Alternatives of New Jersey	HOS	07/2005-10/2009
Partners Pharmacy of New Jersey	RX	07/2005-10/2009

North Carolina

Blue Ridge Health Care Center	SNF	07/2005-10/2009
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Ohio

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

Pennsylvania

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

Puerto Rico

Medicare Y Mucho Mas Medicare Advantage Plan 07/2005-11/2009

Rhode Island

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

Virginia

Colonial Heights Health Care Center SNF 07/2005-10/2009  
Glenburnie Rehabilitation SNF 07/2005-10/2009  
Hopewell Health Care Center SNF 07/2005-10/2009  
Valley Health Care Center SNF/ALF 4/2002-10/2009  
Westport Health Care Center SNF 4/2002-10/2009  
Care Alternatives of Virginia HOS 4/2002-10/2009  
Partners of Virginia, LLC RX 4/2002-10/2009

ACU acute care/hospital ICF intermediate care facility/group home  
ALF assisted living facility IRF intermediate rehab facility  
HHA home health agency LTA long term acute care hospital  
HOM homecare RX pharmacy  
HOS hospice SNF skilled nursing facility/nursing home

**Individual Background Review**

**Warren Cole** is a member and co-founder of Post Acute Partners, LLC, which owns, operates and develops healthcare facilities across the United States, including skilled nursing facilities, assisted living facilities, pediatric specialty care hospitals, home health agencies and institutional pharmacies. Prior to founding Post Acute Partners, LLC Mr. Cole was involved with Care Ventures, Inc., an investment firm which acquires operational and real estate interests in nursing homes and provides financing to health care facilities throughout the United States. Mr. Cole has had extensive health facility ownership interests, which are listed above.

**Jeffrey Rubin** is a member and co-founder of Post Acute Partners, LLC, which owns, operates and develops healthcare facilities across the United States, including skilled nursing facilities, assisted living facilities, pediatric specialty care hospitals, home health agencies and institutional pharmacies. Prior to founding Post Acute Partners, Dr. Rubin served as Executive Vice President Business Development for Care One Management, LLC/Healthbridge Management, LLC from 2000-2009. Previous to his involvement with Care One, Dr. Rubin served as President of Millennium Healthcare, Inc. which was the precursor to Care One. Dr. Rubin was formerly a practicing dentist, with his license currently inactive. Dr. Rubin has had extensive health facility ownership interests, which are listed above.

In the ten year period preceding the formation of Post Acute Partners in early 2010 both Dr. Rubin and Mr. Cole held minority ownership interests, and in some circumstances also held management positions in a group of affiliated, privately held companies which owned and operated various health care facilities and/or services in various states other than the State of New York. Upon their separation from the companies in late 2009, they relinquished their management positions, and since that time they have no authority or ability to direct, influence or otherwise affect the operations of the companies' holdings.

A review of the facilities that Mr. Cole and Dr. Rubin held and relinquished prior to the formation of Post Acute Care Partners was undertaken at their time of acquisition of Elderwood Senior Care, and revealed no issues of character and competence.

### Character and Competence - Analysis

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

A review of operations for the NYS affiliated facilities, identified above, reveals that there were no enforcements.

Review of the out-of-state facilities for which Mr. Cole and Dr. Rubin hold current ownership interests is noted below.

A review of Chestnut Terrace Rehabilitation and Nursing (now Elderwood at Riverside), and Scallop Shell Nursing and Rehabilitation of Rhode Island (now Elderwood of Scallop Shell at Wakefield), Presque Isle Rehabilitation and Nursing Center and The Rehabilitation and Nursing Center at Greater Pittsburg in Pennsylvania for the periods indicated above reveals that there were no enforcements. This information was obtained from an affidavit signed by the applicants, as well as the Medicare.gov Nursing Home Compare website.

A review of Woodmark Pharmacy of Massachusetts for the period indicated above reveals that there were no issues with licensing and certification, as provided by the State of Massachusetts website.

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

An affiliate of the applicant (Niagara Advantage Health Plan, LLC d/b/a Elderwood Health Plan MLTC) was approved for enrollment as a Managed Long Term Care Plan by NYSDOH on April 1, 2016.

A review of CMS's Nursing Home company information for the NYS facilities is as follows:

Provider Name	Overall	Health Inspection	Quality Measures
Elderwood at Amherst	****	***	***
Elderwood at Cheektowaga	***	***	***
Elderwood at Grand Island	***	**	*****
Elderwood at Hamburg	***	***	****
Elderwood at Hornell	**	**	****
Elderwood at Lancaster	*****	****	*****
Elderwood at Liverpool	***	**	*****
Elderwood at Waverly	***	***	**
Elderwood at Wheatfield	***	***	***
Elderwood at Williamsville	****	****	**
Uihlein Living Center**	**	**	**

\*\* Now Elderwood at Uihlein at Lake Placid

### Project Review

No changes in the program or physical environment are proposed in this application. The applicant will enter into an administrative services agreement with Elderwood Administrative Services, LLC. Elderwood Administrative is 100% owned by Post Acute Partners Management, LLC jointly owned by Warren Cole and Jeffrey Rubin.

## Conclusion

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background 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, approval is recommended.**

# Financial Analysis

## Asset Purchase Agreement

The applicant has submitted an executed APA to acquire the operating interests of the RHCF, to be effective upon PHHPC approval of this application. The terms of the agreement are summarized below:

Date:	February 4, 2016
Seller:	Lakeside-Beikirch Care Center, Inc.
Buyer:	Post Acute Partners Acquisition, LLC
Asset Acquired:	All rights, title and interest in business and operation of the Facility; furniture, fixtures and equipment, machinery and furnishings; inventory, supplies, other articles of personal property; transferable contracts, agreements, leases and undertakings; all licenses, agreements, provider numbers, approvals, accreditation, orders and authorizations issued by or required by governmental entity; all intellectual property and other intangible rights, privileges or interests; The name "Lakeside-Beikirch Care Center"; security deposits and prepayments; manuals/computer software; resident /patient records; Goodwill; all books and records relating to the Facility; licenses and permits; Medicare and Medicaid provider numbers; rate increases and/or lump sum or other payments, resulting from rate appeals, audits or otherwise; patient claims accounts receivable on and after Closing Date; leases; and assets of Seller relating to the Facility.
Excluded Assets:	Seller's cash, money market accounts, cash equivalents and short term investments, all bank accounts, any claims, lawsuits, liabilities, obligations, contracts, agreements or debts of seller; any taxes or other obligations or liability of seller prior to closing date.
Assumption of Liabilities:	Liabilities and obligations arising with respect to the operation of the facility on and after the closing date.
Purchase Price:	\$11,500,000
Payment of Purchase Price:	\$350,000 Escrow Deposit after signing and Due Diligence. \$11,150,000 at the closing.

The purchase price for the operations will be satisfied as follows:

Equity (170 West Avenue Operating Company, LLC's Members)	\$2,300,000
Loan (5-year plus 5-year at borrower's option, 6%, 10-year amortization)	<u>\$9,200,000</u>
Total	\$11,500,000

The applicant states that the allocation of the purchase price will not be finalized until Closing. (Tentatively the \$11,500,000 purchase price is allocated as follows: \$9,310,000 to the realty entity and \$2,190,000 to the operating entity). BFA Attachment A is the net worth summaries for the proposed members of PAP, which shows sufficient liquid assets to meet equity requirements.

PAP will assign its rights under the APA related to RHCF operations to 170 West Avenue Operating Company, LLC. As prescribed by the APA, pursuant to the Ground Lease, Lakeside Memorial Hospital Inc./University of Rochester will lease its rights, title and interest in the real property and the facility,

including fixed machinery and fixed equipment situated thereon, to PAP. PAP will assign its rights under the APA related to the RHCF building to 170 West Avenue, LLC.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement 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 there are no outstanding Medicaid liabilities.

#### Assignment of Rights

The applicant has submitted a proposed Assignment of Rights for the assignment of the assets associated with the APA, as shown below:

Assignor:	Post Acute Partners Acquisition, LLC
Assignee-Operating Assets:	170 West Avenue Operating Company, LLC (Operator)
Rights Assigned: (Operating Assets)	Assignor assigns to operator its rights under the APA to purchase the operating assets with respect to the facility
Assignee-Leasehold Interest:	170 West Avenue, LLC
Leasehold Assets Assigned:	Land, Buildings and structures as defined by the Ground Lease.
Price:	\$10.00

#### Lease Rental Agreement

The applicant has submitted a draft lease agreement, the terms of which are summarized below:

Premises:	120-bed RHCF located at 170 West Avenue, Brockport, NY 14420
Landlord:	170 West Avenue, LLC
Lessee:	170 West Avenue Operating Company, LLC
Term:	10 years with four 5-year renewal options.
Rental:	Debt Service of Landlord (\$533,162 in year 1 and \$445,103 in year 3)
Provisions:	Triple Net

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

It is noted that the RHCF Lease Agreement is governed by the above referenced Ground Lease between PAP and the University of Rochester.

#### Administrative Services Agreement

The applicant has submitted a draft Administrative Service Agreement, summarized as follows:

Provider:	Elderwood Administrative Services, LLC
Company/Facility:	170 West Avenue Operating Company, LLC
Services Provided:	Assistance in connection with: accounts receivable, billing, accounts payables, payroll, budgets, financial reporting, regulatory reports, bookkeeping, human resources, information technology, marketing and business development, reimbursement, ancillary and other services, insurance and risk management, and corporate compliance.
Term:	From Effective Date until December 31, 2016, with automatic 1-year renewals
Fee:	\$54,842 per month adjusted and reviewed annually.

The sole member of the administrative services provider entity is Post Acute Partners Management, LLC whose members are Warren Cole and Jeffrey Rubin. 170 West Avenue Operating Company, LLC will maintain responsibility and authority over the daily management and operations of the facility.

## Operating Budget

The applicant has provided the current year (2015), and the first and third year operating budget subsequent to the change in ownership, in 2016 dollars, summarized as follows:

	<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>
<u>Revenue</u>						
Medicaid-FFS	\$211.18	\$5,251,815	\$207.55	\$4,908,871	\$213.20	\$4,202,056
Medicaid-MC		\$0	\$189.96	\$499,207	\$192.56	\$669,724
Medicare-FFS	\$358.65	\$898,774	\$467.44	\$1,428,031	\$476.75	\$1,804,507
Medicare-MC	\$552.39	\$1,659,935	\$477.28	\$1,742,085	\$486.98	\$1,867,076
Private Pay	\$416.32	\$4,134,486	\$467.31	\$4,030,511	\$490.67	\$5,301,208
All other		<u>\$124,290</u>		<u>\$553,402</u>		<u>\$630,894</u>
Total Revenue		\$12,069,300		\$13,162,107		\$14,475,465
<u>Expenses</u>						
Operating	\$273.46	\$11,023,640	\$292.55	\$12,172,858		\$12,648,790
Capital	<u>\$20.98</u>	<u>\$845,732</u>	<u>\$23.34</u>	<u>\$971,020</u>		<u>\$876,769</u>
Total Expenses	\$294.44	\$11,869,372	\$315.88	\$13,143,878		\$13,525,559
Net Income		<u>\$199,928</u>		<u>\$18,229</u>		<u>\$949,905</u>
Utilization (Days)		40,311		41,610		41,610
Occupancy		92%		95%		95%

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

- The current year reflects the facility's actual 2015 revenues, expenses and utilization experience.
- The Medicaid rate is based on the facility's current 2016 Medicaid Regional Pricing rate. The Medicare rate is determined based on the facility's current 2016 rate and adjusted for year one based on the historical CMS increases. The Private Pay rate is determined based on facility's 2016 payment rates and adjusted based on the applicant's plan to provide higher quality clinical services.
- Expenses and staffing assumptions were based on the current operator's model and staffing pattern, adjusted based on the applicant's experience. Operating expenses are projected to increase by \$1,149,218, while capital expenses inclusive of rent are projected to increase by \$125,288. Salaries, Wages and Employee Benefits are projected to increase due to an increase from in-house therapy, RN/Nursing and CNA staff used in place of third party contracted labor, offset by a decrease in Professional Fees. Medical and Surgical Supplies expenses are projected to increase due to higher drug costs. All other expenses are adjusted for inflation.
- The projected utilization for the facility is 95% for the first and third years. It is noted that utilization for the past three years has averaged around 94.53% and current occupancy was 93.3% as of September 28, 2016. Due to DSRIP initiatives, the proposed operator expects that the need for subacute rehabilitative care in the service area will increase and the need for medical care resulting from emergency room diversion from area hospitals will increase. The applicant plans to position the facility to meet long term needs through programs and services designed to facilitate DSRIP Initiatives.
- Breakeven utilization is projected at 94.87% or 41,552 patient days for the first year.
- Utilization by payor source for the first and third years after the change in ownership is summarized below:

<u>Payor</u>	<u>Current</u>		<u>Years One &amp; Three</u>	
	<u>Days</u>	<u>%</u>	<u>Days</u>	<u>%</u>
Medicaid -FFS	24,869	62%	23,652	57%
Medicaid -MC	-	0%	2,628	6%
Medicare-FFS	2,506	6%	3,055	7%
Medicare-MC	3,005	7%	3,650	9%
Private Pay	<u>9,931</u>	<u>25%</u>	<u>8,625</u>	<u>21%</u>
Total	40,311	100%	41,610	100%

## Capability and Feasibility

There are no project costs associated with this application. Post Acute Partners agreed to acquire the rights to the RHCF's real property and operating interest for \$11,500,000. The purchase price will be funded by \$2,300,000 in members' equity and a \$9,200,000 loan for 5 years plus an additional 5 years at the borrows option, 6% interest, and 10-year amortization period. Capital Funding, LLC has provided a letter of interest for the loan at the stated terms. PAP will assign its rights and title to the RHCF's operations and real property to 170 West Avenue Operating Company, LLC and 170 West Avenue, LLC, respectively, for \$10.

The working capital requirement of \$2,190,646 is based on two months of first year expenses. Working capital will be funded with \$1,095,323 in members' equity and a \$1,095,323 loan at 3.75% interest for a five-year term. Capital Funding, LLC has provided a letter of interest for the working capital loan. Review of the operating members' net worth (BFA Attachment A) shows that members have sufficient liquid resources to meet both the project equity and working capital requirements.

The submitted budget projects net profit of \$18,229 in Year One and \$949,905 in Year Three after the change in ownership. The applicant projects additional expenses of \$1,274,506 and \$1,656,150 in Year One and Year Three, respectively, based on increases in rent (debt service) and increase in salaries and wages needed to accommodate the increase in utilization, but partially offset by savings in professional fees. BFA Attachment C is 170 West Avenue Operating Company, LLC's pro forma balance sheet as of the first day of operation, which shows operations will start with \$3,285,323 (operating) and \$110,000 (realty) in equity. Assets include intangible assets of \$1,840,000, which is not a liquid resource nor is it recognized for Medicaid reimbursement. If intangible assets were eliminated from the equation, the total net assets are a positive \$1,445,323. 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 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 NH revenues through the transition period.

BFA Attachment D is the Financial Summary of Lakeside-Beikirch Care Center, Inc. As shown, the RHCF had an average positive working capital position of \$827,813, an average negative net assets position of \$923,401 and an average income of \$114,424 for the period. The entity has generated a net operating loss of \$20,169 as of June 30, 2016.

BFA Attachment E is the financial summary of affiliated RHCFs for the period 2014 through June 30, 2016, which shows the facilities had a positive working capital positions, positive net assets positions and operating surpluses for the period shown except the following:

- Elderwood at Grand Island (2850 Grand Island Boulevard Operating Company, LLC) demonstrates negative working capital for the period shown. The applicant attributes the negative working capital to the timing of short-term working capital needs (due to the timing of payroll and collections). The facility shows a nominal loss year-to-date 2016, which the applicant attributes to increased prescription drug costs. The applicant anticipates improved results as of the end of the calendar year.
- Elderwood at Cheektowaga (225 Bennett Road Operating Company, LLC) and Elderwood at Hamburg (5775 Maelou Drive Operating Company, LLC) show negative working capital as of December 31, 2015. The applicant attributes the negative working capital to the timing of short-term working capital needs (due to the timing of payroll and collections). While Elderwood at Cheektowaga demonstrates positive operating income through June 30, 2016, the facility experienced a net loss in 2015 which they attributed to a lower than normal census.

- Elderwood at Waverly (37 North Chemung Street Operating Company, LLC) shows positive working capital and positive net income as of December 31, 2015, but an operating loss and negative working capital through June 30, 2016. The applicant attributes the results to extensive renovations, approved under CON 151015, described as requisite renovations to accommodate outpatient therapy services. The applicant believes the associated noise and disruption caused potential residents to choose alternate facilities. However, the applicant believes the facility will show positive operating income by the end of the year and occupancy will return to normal, as the project is complete.

The applicant notes that the above referenced entities have access to revolving credit lines that cover temporary negative working capital balances.

It is noted that the proposed operators established membership in the above referenced affiliated facilities as of July 28, 2013. Financial statements for 1 Bethesda Drive Operating Company, LLC (Elderwood at Hornell) and 185 Old Military Road Operating Co (Uihlein Living Center in Lake Placid) were not evaluated as the applicant was not established as the operator of the facilities until April 12, 2016 and August 2, 2016 respectively.

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.**

# Finger Lakes HSA Review & Recommendation

## MEMO

**TO:** CON Project File  
**RE:** CON Project 162120  
**DATE:** August 25, 2016

*Service Location:* 170 West Avenue  
Brockport, N.Y., 14420

*Description:*

The applicant, 170 West Avenue Operating Company, LLC proposes to be establish itself as the new operator of Lakeside-Beikirch Care Center. The care center is a 120 bed residential health care facility, located at 170 West Ave, Brockport (Monroe County) N.Y. There is no construction proposed in this application. If approved, the name of the facility will change from Lakeside-Beikirch to Elderwood of Lakeside at Brockport.

*Project Capital Cost:*

\$11.5M, with first year incremental operating costs of \$1,372,133.00

*Projected Changes to Community Capacity:*

The proposed does not change community capacity. However, due to its remote location, it may be appropriate to consider this area separately from the rest of the county. Other areas of the county are more urban and have multiple facilities addressing the populations' need. Table 1 below shows the 2015 and 2020 Bed Need for Monroe County as well as current bed capacity. Based on the bed need and percentage of the elderly population the Elderwood of Lakeside at Brockport service area needed 202 beds in 2015 and will need 166 beds in 2020. Since the facility has 120 beds, it is within the bed need for this area of the county.

**Table 1- Monroe county Bed Capacity and Need**

2016 Bed Capacity	5177
2015 Bed Need	5067
2020 Bed Need	4165

*Projected Changes to Community Access:*

Although the expansion does not represent an increase in the geographical access to services it does increase the potential availability. While Monroe County currently has a current surplus of skilled nursing beds, the beds are located in the Brockport area. This facility is located in an area that is Northwestern part of Monroe County near small villages such as Hamlin and Clarkson. In this location the population of those over the age of 85 is over 4% of the population in all of Monroe County.

The operator states that it will continue to endorse and agree to meet “Medicaid Access” requirements. In addition the operator states that the nursing home “will accept Medicaid pending residents.”<sup>1</sup>

*Comments:*

Currently Lakeside Beikirch Care Center has an overall Medicare Compare quality rating of 3 stars. The ten other facilities, which Post-Acute Partners (the principals in 170 West Ave. Operating Company, LLC) operate, have an average score of 3.4 stars.

**Recommendation:** Approval

*Contingencies:* None

*Conditions:* None

## Attachments

BFA Attachment A	Net worth summary, members of Post Acute Partners Acquisition, LLC
BFA Attachment B	Organizational Chart
BFA Attachment C	Pro Forma Balance Sheet, 170 West Avenue Operating Company, LLC
BFA Attachment D	Financial Summary, Lakeside-Beikirch Care Center, Inc.
BFA Attachment E	Financial Summary, affiliated nursing home facilities

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<sup>1</sup> Schedule 18A, p. 4.



**Project # 162229-E**  
**1019 Wicker Street Operating Company, LLC**  
**d/b/a Elderwood at Ticonderoga**

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

**County: Essex**  
**Acknowledged: September 22, 2016**

**Executive Summary**

**Description**

1019 Wicker Street Operating Company, LLC d/b/a Elderwood at Ticonderoga, a New York limited liability company, requests approval to be established as the operator of Heritage Commons Residential Health Care (Heritage Commons), an 84-bed Article 28 residential health care facility (RHCF) located on the Inter-Lakes Health campus at 1019 Wicker Street, Ticonderoga (Essex County). A separate entity, 1019 Wicker Street, LLC, will acquire rights to the real property. There will be no change in beds or services provided.

On May 23, 2016, Post Acute Partners Acquisition, LLC (PAP), a Delaware limited liability company licensed to do business in New York State, entered into an Asset Purchase Agreement (APA) with Moses Ludington Nursing Home Company, Inc. (MLNHC), the current RHCF operator, to acquire the operating interests and certain property assets (furniture and equipment) of Heritage Commons for \$50,000. The APA also included the sale and acquisition by PAP of Moses Ludington Adult Care Facility, a 23-bed NYS licensed Adult Home (AH) located on the same campus. As part of the APA, PAP entered into a Ground Lease with MLNHC to secure site control of the skilled nursing facility. PAP will assign its rights and title to the operating interests and the purchased/leased real property assets to 1019 Wicker Street Operating Company, LLC and 1019 Wicker Street, LLC, respectively. 1019 Wicker Street, LLC will lease the RHCF premises to 1019 Wicker Street Operating Company, LLC. There is a relationship between

the proposed operating and realty LLCs in that the entities have common membership.

The seller indicated that Inter-Lakes Health (ILH), the sole corporate member of MLNHC, in conjunction with the University of Vermont Health Network, Inc., retained Stroudwater Associates to perform an assessment to inform the Board's discussion of the viability of the nursing home and Moses-Ludington Hospital (MLH), a 15-bed Critical Access Hospital also located on the Inter-Lakes campus. Stroudwater's assessment concluded that ILH could not survive as an independent hospital and nursing home. Both the nursing home and hospital had been experiencing losses over the prior years, and projections for the future were no better. The Board decided to sell the nursing home as it was a significant financial drain on the system. They believe that selling the RHCF offers the greatest opportunity to preserve access to nursing home care in the community, and will permit the restructuring of MLH as a Division of Elizabeth Community Hospital. The Board marketed the nursing home, initially receiving three responses, and after almost a year of discussions with one potential purchaser, determined to pursue the sale with PAP.

The seller anticipates that the proposed operator will enter into a long-term lease agreement, with an option to buy the real estate utilized by the RHCF and AH. MLNHC is currently servicing a United States Department of Housing and Urban Development (HUD) insured mortgage that has a maturity date in 2031. The lease payments

will be utilized to service the mortgage. The seller indicated that if the option to purchase were subsequently exercised by PAP, the sale proceeds would be used to satisfy, in part, the outstanding HUD mortgage. Regulatory agreements dictate that HUD and Berkadia Commercial Mortgage, Inc., the current lender, approve the new operator before any change in ownership. Furthermore, HUD and Berkadia must approve the lease that MLNHC enters into with PAP. HUD and Berkadia have been apprised of the proposed transactions and the approval process is underway.

The current and proposed operator of the RHCF are as follows:

<u>Current Operator</u>	
Moses Ludington Nursing Home Company, Inc.	100%
<u>Proposed Operator</u>	
1019 Wicker Street Operating Company, LLC	
<u>Members</u>	<u>%</u>
1019 Wicker Street Operating Holdco, LLC	100%
Warren Cole	(50%)
Jeffery Rubin	(50%)

BFA Attachment B presents an Organizational Chart of the facility after the requested change.

Warren Cole and Jeffery Rubin have ownership interest in eleven New York RHCFs. BFA Attachment E presents the financial summaries of the proposed members' affiliated RHCFs.

On October 3, 2016, the applicant submitted an application for the change in ownership of the AH, which is under review by the Department's Division of ACF/Assisted Living Surveillance. Concurrently under review, the applicant members are seeking approval to be established as the new operator of Lakeside Beikirch Care Center, Inc., a 120-bed RHCF located in Brockport, Monroe County (CON 162120).

OPCHSM Recommendation  
Contingent Approval

Need Summary

There will be no change to beds or services at this facility. Heritage Commons utilization was 90.6% in 2013, 94.6% in 2014, and 94.6% in 2015. Current utilization, as of September 28, 2016 is 94.0%, with 5 vacant beds.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background 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

PAP agreed to acquire the RHCF's operations and certain property assets (furniture and equipment) for \$50,000. The purchase price will be met with members' equity. PAP will assign its rights and title to the RHCF operations and real property to 1019 Wicker Street Operating Company, LLC and 1019 Wicker Street, LLC, respectively, for \$10. There are no project costs associated with this proposal. The projected budget is as follows:

	<u>First Year</u>
Revenues	\$7,840,413
Expensed	<u>\$7,665,339</u>
Gain/(Loss)	\$175,074

## 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 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)
2. 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)
3. 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
4. Other factors as determined by the applicant to be pertinent. (RNR)Submission of an executed Assignment of Rights, acceptable to the Department of Health. [BFA]
5. Submission of an executed Health Care Center Facility Lease, acceptable to the Department of Health. [BFA]
6. Submission of an executed Ground Lease, acceptable to the Department of Health. [BFA]
7. Submission of an executed Administrative Services Agreement, acceptable to the Department of Health. [BFA]
8. Submission of an executed Limited Guaranty Agreement, acceptable to the Department of Health. [BFA]
9. Submission of documentation of approval by HUD and Berkadia Commercial Mortgage, Inc. for the change in operator of the nursing home, acceptable to the Department of Health. [BFA]
10. Submission of documentation of approval by HUD and Berkadia Commercial Mortgage, Inc. for the Health Care Center Facility Lease, acceptable to the Department of Health. [BFA]
11. Submission of a photocopy of an executed and completed facility lease agreement, acceptable to the Department. [CSL]
12. Submission of a photocopy of the applicant's amended and completed operating agreement, which is acceptable to the Department. [CSL]
13. Submission of a photocopy of the applicant's amended and completed articles of organization, which is acceptable to the Department. [CSL]

14. Submission of a photocopy of the applicant's amended and completed assignment of rights, which is acceptable to the Department. [CSL]
15. Submission of a photocopy of the certificate of authority to do business in New York State by 1019 Wicker Street Operating Holdco, LLC, which is acceptable to the Department. [CSL]
16. Submission of a photocopy of 1019 Wicker Street Operating Holdco, LLC's amended and completed operating agreement, which is acceptable to the Department. [CSL]
17. Submission of a photocopy of 1019 Wicker Street Operating Holdco, LLC's amended and completed articles of organization, which is acceptable to the Department. [CSL]
18. Submission of a list providing the name, membership interest and percentage ownership interest in the 2nd level member and indirect ownership percentage in the Article 28 LLC, which is acceptable to the Department. [CSL]

**Approval conditional upon:**

1. The project must be completed within two 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. 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

**December 8, 2016**

# Need Analysis

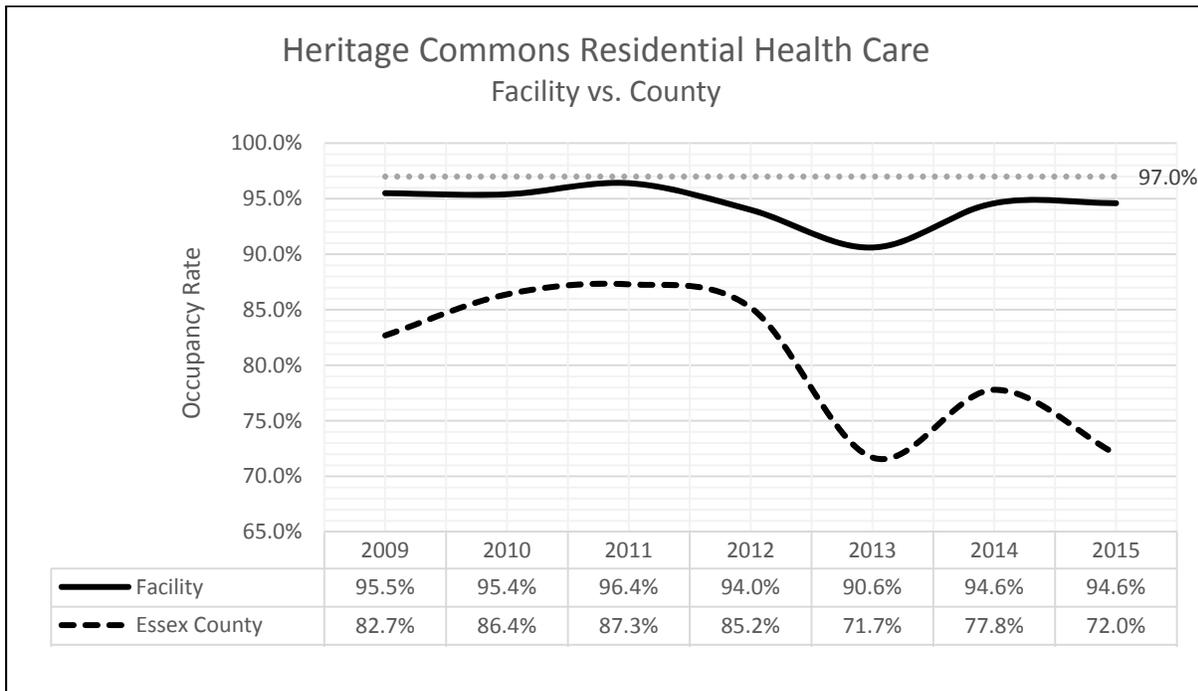
## Project Description

1019 Wicker Street Operating Company, LLC, seeks approval to become the established operator of Heritage Commons Residential Health Care, an 84-bed Article 28 residential health care facility (RHCF) located at 1019 Wicker Street, Ticonderoga, 12883 in Essex County. Upon approval of this application, the name of the facility will become Elderwood at Ticonderoga.

## Analysis

There is currently a need for 28 beds in Essex County as indicated in the following table:

<b>2016 Projected Need</b>	368
<b>Current Beds</b>	340
<b>Beds Under Construction</b>	0
<b>Total Resources</b>	340
<b>Unmet Need</b>	28



Heritage Commons Residential Health Care's (Heritage Commons) utilization was 90.6% in 2013, 94.6% in 2014, and 94.6% in 2015. According to the applicant, between 2012 and 2014 ten beds in the rehabilitation unit were temporarily closed due to an inability to recruit adequate nursing and therapy staff.

In July of 2016, the facility retained a new full-time Administrator, Director of Nursing and Assistant Director of Nursing. The admissions process was streamlined to shorten the length of time from referral to admission. Additional therapy and nursing staff were added, which allowed the facility to accommodate admissions that it previously couldn't due to inadequate staffing. As a result, utilization at Heritage Commons increased to 96.4% as of September 1, 2016.



Character and Competence - Background

**Facilities Reviewed**

NYS 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
Elderwood at Hornell		04/12/16 to present
Elderwood at Uihlein at Lake Placid		10/04/16 to present

NYS Adult Home/Enriched Housing Program

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
Tonawanda Manor		02/2016 to present
McCauley Manor at MercyCare		04/2016 to present

NYS Licensed Home Care Agency

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
Elderwood Assisted Living at Tonawanda		04/2016 to present

NYS Licensed Pharmacy

Woodmark Pharmacy of New York, LLC		07/2013 to present
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Alabama

Laurelton Rehabilitation and Nursing Center	SNF	10/2006-5/2008
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California

Care Alternatives of California	HOS	07/2005-10/2009
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Connecticut

Danbury Health Care Center	SNF	07/2005-10/2009
Darien Health Care Center	SNF	07/2005- 2007
Golden Hill Health Care Center	SNF	07/2005-10/2009
Long Ridge of Stamford	SNF	07/2005-10/2009
Newington Health Care Center	SNF	07/2005-10/2009
River Glen Health Care Center	SNF	07/2005-10/2009
The Highlands Health Care Center	SNF	07/2005-10/2009
West River Health Care Center	SNF	07/2005-10/2009
Westport Health Care Center	SNF	07/2005-10/2009
Wethersfield Health Care Center	SNF	07/2005-10/2009
Partners Pharmacy of Connecticut	RX	07/2005-10/2009

Kansas

Care Alternatives of Kansas	HOS	07/2005-10/2009
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Maryland

Montgomery Village Health Care Center	SNF	07/2005-10/2009
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Massachusetts

Brookline Health Care Center	SNF	07/2005-10/2009
Calvin Coolidge Nursing & Rehab Center	SNF	07/2005-10/2009
Cedar Hill Health Care Center	SNF	07/2005-10/2009
Concord Health Care Center	SNF	07/2005-10/2009
Essex Park Rehabilitation & Nursing Center	SNF	07/2005-10/2009
Holyoke Health Care Center	SNF	07/2005-10/2009
Lexington Health Care Center	SNF	07/2005-10/2009
Lowell Health Care Center	SNF	07/2005-10/2009
Milbury Health Care Center	SNF	07/2005-10/2009
New Bedford Health Care Center	SNF	07/2005-10/2009
Newton Health Care Center	SNF	07/2005-10/2009
Peabody Glen Health Care Center	SNF	07/2005-10/2009
Redstone Health Care Center	SNF	07/2005-10/2009
Weymouth Health Care Center	SNF	07/2005-10/2009
Wilmington Health Care Center	SNF	07/2005-10/2009
Care Alternatives of Massachusetts	HOS	07/2005-10/2009
Partners Pharmacy of Massachusetts	SNF	07/2005-10/2009
Woodmark Pharmacy of Massachusetts	RX	06/2013- present

Michigan

Grand Blanc Rehabilitation & Nursing Center	SNF	10/2006-10/2009
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Missouri

Care Alternatives of Missouri	HOS	07/2005-10/2009
Cliffview at Riverside Rehab & Nursing Center	SNF	10/2006-05/2008
Partners Pharmacy of Missouri	RX	07/2005-10/2009

New Jersey

Bergen Care Home Health	HHA	2007-10/2009
Bergen Care Personal Touch	HHA	2007-10/2009
Care Alternatives of New Jersey	HOS	07/2005-10/2009
Care One at Dunroven	SNF	07/2005-10/2009
Care One at East Brunswick	SNF	07/2005-10/2009
Care One at Evesham	SNF	07/2005-10/2009
Care One at Evesham Assisted Living	ALF	10/2007-10/2009
Care One at Ewing	SNF	07/2005-10/2009
Care One at Hamilton	SNF	07/2005-10/2009
Care One at Holmdel	SNF	07/2005-10/2009
Care One at Jackson	SNF	07/2005-10/2009
Care One at King James	SNF	07/2005-10/2009
Care One at Livingston	SNF	09/2005-10/2009
Care One at Livingston	ALF	09/2005-10/2009
Care One at Madison Avenue	SNF	07/2005-10/2009
Care One at Moorestown	SNF	07/2005-10/2009
Care One at Moorestown	ALF	07/2005-10/2009
Care One at Morris	SNF	07/2005-10/2009
Care One at Morris Assisted Living	ALF	07/2005-10/2009
Care One at Pine Rest	SNF	07/2005-10/2009
Care One at Raritan Bay MC	LTA	07/2005-10/2009
Care One Harmony Village at Moorestown	SNF	07/2005-10/2009
Care One at Teaneck	SNF	04/2007-10/2009
Care One at The Cupola	SNF	07/2005-10/2009

Care One at The Highlands	SNF	07/2005-10/2009
Care One at Valley	SNF	07/2005-10/2009
Care One at Wall	SNF	07/2005-10/2009
Care One at Wayne	SNF/ALF	07/2005-10/2009
Care One at Wellington	SNF	07/2005-10/2009
Ordell Health Care Center	SNF	07/2005-10/2009
Somerset Valley Rehabilitation and Nursing	SNF	10/2006-10/2009
South Jersey Health Care Center	SNF	07/2005-10/2009
Woodcrest Health Care Center	SNF	07/2005-10/2009
Care Alternatives of New Jersey	HOS	07/2005-10/2009
Partners Pharmacy of New Jersey	RX	07/2005-10/2009

North Carolina

Blue Ridge Health Care Center	SNF	07/2005-10/2009
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Ohio

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

Pennsylvania

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

Puerto Rico

Medicare Y Mucho Mas	Medicare Advantage Plan	07/2005-11/2009
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Rhode Island

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

Virginia

Colonial Heights Health Care Center	SNF	07/2005-10/2009
Glenburnie Rehabilitation	SNF	07/2005-10/2009
Hopewell Health Care Center	SNF	07/2005-10/2009
Valley Health Care Center	SNF/ALF	4/2002-10/2009
Westport Health Care Center	SNF	4/2002-10/2009
Care Alternatives of Virginia	HOS	4/2002-10/2009
Partners of Virginia, LLC	RX	4/2002-10/2009

ACU acute care/hospital	ICF intermediate care facility/group home
ALF assisted living facility	IRF intermediate rehab facility
HHA home health agency	LTA long term acute care hospital
HOM homecare	RX pharmacy
HOS hospice	SNF skilled nursing facility/nursing home

### **Individual Background Review**

**Warren Cole** is a member and co-founder of Post Acute Partners, LLC, which owns, operates and develops healthcare facilities across the United States, including skilled nursing facilities, assisted living facilities, pediatric specialty care hospitals, home health agencies and institutional pharmacies. Prior to founding Post Acute Partners, LLC Mr. Cole was involved with Care Ventures, Inc., an investment firm which acquires operational and real estate interests in nursing homes and provides financing to health care facilities throughout the United States. Mr. Cole has had extensive health facility ownership interests, which are listed above.

**Jeffrey Rubin** is a member and co-founder of Post Acute Partners, LLC, which owns, operates and develops healthcare facilities across the United States, including skilled nursing facilities, assisted living facilities, pediatric specialty care hospitals, home health agencies and institutional pharmacies. Prior to founding Post Acute Partners, Dr. Rubin served as Executive Vice President Business Development for Care One Management, LLC/Healthbridge Management, LLC from 2000-2009. Previous to his involvement with Care One, Dr. Rubin served as President of Millennium Healthcare, Inc. which was the precursor to Care One. Dr. Rubin was formerly a practicing dentist, with his license currently inactive. Dr. Rubin has had extensive health facility ownership interests, which are listed above.

In the ten year period preceding the formation of Post Acute Partners in early 2010, both Dr. Rubin and Mr. Cole held minority ownership interests, and in some circumstances also held management positions in a group of affiliated, privately held companies which owned and operated various health care facilities and/or services in various states other than the State of New York. Upon their separation from the companies in late 2009, they relinquished their management positions, and since that time they have no authority or ability to direct, influence or otherwise affect the operations of the companies' holdings.

A review of the facilities that Mr. Cole and Dr. Rubin held and relinquished prior to the formation of Post Acute Care Partners was undertaken at their time of acquisition of Elderwood Senior Care, and revealed no issues of character and competence.

#### Character and Competence - Analysis

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

A review of operations of the NYS affiliated facilities identified above reveals that there were no enforcements.

Review of the out-of-state facilities for which Mr. Cole and Dr. Rubin hold current ownership interests is noted below:

A review of Chestnut Terrace Rehabilitation and Nursing (now Elderwood at Riverside), and Scallop Shell Nursing and Rehabilitation of Rhode Island (now Elderwood of Scallop Shell at Wakefield), Presque Isle Rehabilitation and Nursing Center and The Rehabilitation and Nursing Center at Greater Pittsburg in Pennsylvania for the periods indicated above reveals that there were no enforcements. This was information was obtained from an affidavit signed by the applicants, as well as the Medicare.gov Nursing Home Compare website.

A review of Woodmark Pharmacy of Massachusetts for the period indicated above reveals that there were no issues with licensing and certification, as provided by the State of Massachusetts website.

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

An affiliate of the applicant (Niagara Advantage Health Plan, LLC d/b/a Elderwood Health Plan MLTC) was approved for enrollment as a Managed Long Term Care Plan by NYSDOH on April 1, 2016.

A review of CMS's Nursing Home company information for the NYS facilities is as follows:

Provider Name	Overall	Health Inspection	Quality Measures
Elderwood at Amherst	****	***	***
Elderwood at Cheektowaga	***	***	***
Elderwood at Grand Island	***	**	*****
Elderwood at Hamburg	***	***	****
Elderwood at Hornell	**	**	****
Elderwood at Lancaster	*****	****	*****
Elderwood at Liverpool	***	**	*****
Elderwood at Waverly	***	***	**
Elderwood at Wheatfield	***	***	***
Elderwood at Williamsville	****	****	**
Uihlein Living Center**	**	**	**

\*\* Now Elderwood at Uihlein at Lake Placid

#### Project Review

No changes in the program or physical environment are proposed in this application. The applicant will enter into an administrative services agreement with Elderwood Administrative Services, LLC. Elderwood Administrative is 100% owned by Post Acute Partners Management, LLC which is jointly owned by Warren Cole and Jeffrey Rubin.

#### Conclusion

No negative information has been received concerning the character and competence of the proposed applicants. All health care facilities are in substantial compliance with all rules and regulations. The individual background 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, approval is recommended.**

## Financial Analysis

### Asset Purchase Agreement

The applicant has submitted an executed APA to acquire the RHCF operating interests, to be effective upon PHHPC approval of this application. The terms of the agreement are summarized below:

Date:	May 23, 2016
Purchaser:	Post Acute Partners Acquisition, LLC
Seller:	Moses Ludington Nursing Home Company, Inc.
Assets Transferred:	Inventory; right, title and interest of Seller to all furniture, furnishings, equipment, computers, machinery, mechanical systems, security systems, vehicles and office equipment; real property records; assumed contracts and all assumed admission agreements; licenses in connection with the facilities; trademarks, trade names, service marks, trade dress used in connection with the operation of the facilities; patient records and books and records; and all other items of tangible and intangible personal property used in connection with the use, operation and maintenance of the facility.
Excluded Assets:	Seller's bank accounts, cash, cash equivalents and securities, financial investments (other than move-in deposits, patient deposits and other trust funds; replacement and tax escrow reserves; interest in moneys held in HUD reserves and escrow accounts; prepaid expenses, including insurance; accounts receivable; refunds or reimbursements; actions, claims, disputes, litigation, judgments and demands; seller's rights and benefits under this agreement; all of the seller's other assets, properties not located at and/or utilized in connection with the operation of the facility; employee benefit plans and assets; federal, state and local income tax returns; non-transferrable or non-assignable permits and licenses; and seller's financial books and records.
Assumed Liabilities:	Assumed Contracts and Assumed Admissions Agreements as they relate to periods after the effective time.
Purchase Price:	\$50,000
Payment of Purchase Price:	\$50,000 deposit held in escrow to be applied to the purchase price at closing.
Guaranty:	Per section 7.1, 4.17 and related agreement, the University of Vermont Health Network, Inc. guarantees to Post Acute Partners up to \$1,000,000 to address any of the purchaser's indemnified losses, identified as obligations prior to the effective date, inaccuracies and omissions and any excluded liabilities.

The purchase price for the operations is proposed to be satisfied with members' equity. The applicant states that the allocation of the purchase price will not be finalized until Closing. BFA Attachment A is the net worth summaries for the proposed members of Post Acute Partners, which shows sufficient liquid assets to meet equity requirements.

The applicant notes that PAP is only acquiring the furniture and equipment associated with the operations and not the building or property. As prescribed by the APA, pursuant to the Ground Lease, MLNHC will lease its interest in the land, buildings, structures and easement rights to alleys and strips adjoining the real property to PAP.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement 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 there are no outstanding Medicaid liabilities.

### Assignment of Rights

The applicant has submitted a proposed Assignment of Rights for the assignment of the assets associated with the APA, as shown below:

Assignor:	Post Acute Partners Acquisition, LLC
Skilled Nursing Operator:	1019 Wicker Street Operating Company, LLC
Adult Home Operator:	1019 Wicker Street AL Operating Company, LLC
Real Estate Operator:	1019 Wicker Street, LLC
Skilled Nursing Operating Assets Transferred:	Assets associated with the operation of the skilled nursing facility of Heritage Commons
Adult Home Operating Assets Transferred:	Assets associated with the operation of the adult home of Moses Ludington Adult Care Facility
Real Estate Assets Transferred:	Assets associated with the real property with respect to the facility located at 1019 Wicker Street, Ticonderoga, NY 12883.
Assignment Fee:	\$10

### Health Care Facility Lease Agreement

The applicant has submitted a draft lease agreement, the terms of which are summarized below:

Premises:	1019 Wicker Street, Ticonderoga, New York 12883 upon which an 84-bed skilled nursing facility is located.
Landlord:	1019 Wicker Street, LLC
Tenant:	1019 Wicker Street Operating Company, LLC
Term:	10 years with four (4) extension terms of five (5) years each at the tenant's discretion provided the Ground Lease has not expired.
Rent:	Equal to amounts due from landlord to ground lessor under the ground lease in accordance with the scheduled payment terms due thereunder; amounts due from landlord to any lender under any loan related to the property; and other amounts necessary to cover any additional debt service of landlord.
Provisions:	Triple Net

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

The above referenced Ground Lease governs the Health Care Facility Lease Agreement. The applicant states that the Ground Lease is in process and not final, but projects \$400,000 per annum in rent based on anticipated amounts due from the landlord to the ground lessor. The applicant does not anticipate additional amounts due based on amounts paid from the landlord to lender or other amounts due to cover additional debt service of the landlord.

### Administrative Services Agreement

The applicant has submitted a draft Administrative Service Agreement, summarized as follows:

Provider:	Elderwood Administrative Services, LLC
Company:	1019 Wicker Street Operating Company, LLC
Services Provided:	Assistance including: accounts receivable; billing; accounts payable; payroll; budgets; financial reporting; regulatory reports; bookkeeping; human resources; information technology; marketing and business development; reimbursement; ancillary and other services; insurance and risk management; and corporate compliance.
Term:	From Effective Date until December 31, 2016, with automatic 1-year renewals.
Fee:	\$34,373.63 per month with periodic adjustments based on a consideration of the fees, the scope of operations, the changes in the purchasing power of money, the services being performed, the size of nonprofessional workforce and the expenses of the provider, reflecting the fair market value.

The sole member of the administrative services provider entity is Post Acute Partners Management, LLC whose members are Warren Cole and Jeffrey Rubin. 1019 Wicker Street Operating Company, LLC will maintain responsibility and authority over the daily management and operations of the facility.

### Operating Budget

The applicant has provided the current year (2015), and first and third year operating budgets subsequent to the change in ownership, in 2016 dollars, summarized as follows:

Revenues	Current Year		First Year		Third Year	
	Per Diem	Total	Per Diem	Total	Per Diem	Total
Commercial	\$297.63	\$83,337	\$420.00	\$766,500	\$432.60	\$789,495
Medicare	\$317.68	\$410,762	\$374.01	\$682,576	\$489.82	\$893,918
Medicaid	\$194.83	\$4,442,253	\$210.72	\$4,214,743	\$216.19	\$4,324,244
Private Pay	\$311.57	\$1,440,068	\$329.51	\$1,804,094	\$345.99	\$1,894,299
All Other		<u>\$1,608,413</u>		<u>\$372,500</u>		<u>\$566,277</u>
Total		\$7,984,833		\$7,840,413		\$8,468,233
<b>Expenses</b>						
Operating	\$262.26	\$7,604,369	\$249.44	\$7,265,339	\$263.50	\$7,675,107
Capital	<u>\$34.65</u>	<u>\$1,004,611</u>	<u>\$13.73</u>	<u>\$400,000</u>	<u>\$13.73</u>	<u>\$400,000</u>
Total Expenses	\$296.90	\$8,608,980	\$263.17	\$7,665,339	\$277.24	\$8,075,107
Net Income		<u>(\$624,147)</u>		<u>\$175,074</u>		<u>\$393,126</u>
Patient Days		28,996		29,127		29,127
Utilization %		94.57%		95.00%		95.00%

The following is noted with respect to the submitted budget:

- The Current Year represents the facility's 2015 experience.
- The revenue assumptions are based on the applicant's experience, via affiliated entities, operating other NYS RHCFS.
- Budgeted Other Operating Revenue includes the following: additional charges to residents for cable services, cafeteria meals for families and one-time charges.
- The First Year budget eliminates revenue associated with prior period adjustments, lease revenue that will not continue after the change of ownership and Vital Access Provider funding.
- The basis for the First and Third Year rates are as follows:
  - Based on the applicant's experience in contract negotiations, they project 3% increases each year after the first year for existing commercial payor contracts.
  - The budgeted Medicare revenue is based on their anticipation that Medicare rates will increase by 2% due to a planned focus on short-term postsurgical care for higher-acuity Medicare residents, which would result in higher Medicare reimbursement rates.
  - The budgeted Private Pay revenue is based on 5% yearly increases based on their plan to provide higher-quality clinical services.
- The applicant projected staffing based on department specific staffing models by position and shift.
- A reduction in employee benefits is anticipated based on a reduction in Worker's Compensation expense resulting from their work safety program, and the transition of health insurance and other benefit programs from the current operator to the applicant.
- Utilities are projected based on similar costs incurred at other facilities operated by the applicant.
- Utilization assumptions are based on the applicant's experience and plans to focus on increasing patient access to higher-acuity, short-term, subacute rehabilitative and post-surgical care. The applicant projects a need for subacute rehabilitative care in the service area. A focus on such patients plus emergency room diversions from area hospitals will help to increase occupancy.
- Noted in relation to the projected utilization, the applicant states the facility recently implemented a strategic marketing plan with what they believe are positive results.
- Breakeven utilization is projected at approximately 92.88% for Year One.

- Overall utilization is 95% in Years One and Three, while utilization by payor source is as follows:

	<u>Current</u>	<u>%</u>	<u>First Year</u>	<u>%</u>	<u>Third Year</u>	<u>%</u>
Commercial	280	0.97%	1,825	6.27%	1,825	6.27%
Medicare	1,293	4.46%	1,825	6.27%	1,825	6.27%
Medicaid	22,801	78.63%	20,002	68.67%	20,002	68.67%
Private Pay	<u>4,622</u>	<u>15.94%</u>	<u>5,475</u>	<u>18.80%</u>	<u>5,475</u>	<u>18.80%</u>
	28,996	100.00%	29,127	100.00%	29,127	100.00%

### Capability and Feasibility

There are no project costs associated with this application. Post Acute Partners has agreed to acquire the rights to the RHC's real property and operating interests for \$50,000. The acquisition price will be met with \$50,000 in members' equity. Post Acute Partners will assign its rights to the operating interest of the RHC to 1019 Wicker Street Operating Company, LLC and will transfer the leasehold rights to the property to 1019 Wicker Street, LLC for a total of \$10.

The working capital requirement of \$1,277,556 is based on two months of first year expenses. Working capital will be met with members' equity. Review of the operating members' net worth (BFA Attachment A) shows sufficient assets overall to meet equity requirements.

BFA Attachment C is 1019 Wicker Street Operating Company, LLC's pro forma balance sheet as of the first day of operation, which indicates a positive members' equity of \$1,324,295.

The applicant projects net income of \$175,074 in the Year One based on an increase in operating revenue of \$1,208,702 and a \$943,641 reduction in total operating costs offset by a \$1,353,122 reduction in non-operating revenue (prior period adjustments, lease revenue and Vital Access Provider funding that will not continue after the change in ownership).

The increase in operating revenue is related to an anticipated increase of 131 patient days total (532 additional Medicare plus 2,398 Commercial and Private Pay offset by a reduction of 2,799 Medicaid patient days), which the applicant anticipates achieving through their plan to focus on higher-acuity, short-term care patients. The change in utilization by payor source coincides with anticipated increases in reimbursement rates across all payor sources, ranging from 6% and 41% with the largest reimbursement rate increase coming from Medicare and Commercial payor sources, the largest areas of utilization growth.

The applicant projects a reduction in expenses based mostly on a \$471,178 reduction in Interest, a \$133,433 reduction in Depreciation and Rent and a \$1,402,016 reduction in Purchased Services and Other Direct Expenses, partially offset by a \$740,261 increase in Salaries and Wages concurrent with the addition of 9.49 FTEs, and a \$243,597 increase in Professional Fees. The applicant attributes reductions in Purchased Services and Other Expenses to contract labor within these categories being retained in-house (reflected in the increase in Salaries and Wages). FTE reductions in laundry, food service and social services are in line with their staffing model for these departments and their plan to focus on improving clinical and therapy services. The applicant anticipates adding 3.85 FTEs in physical and occupational therapy, reducing Management by 8.79 FTEs, and reducing RN staff by 4.0 FTEs.

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 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 NH revenues through the transition period.

BFA Attachment D, the 2014-2016 financial summary of Heritage Commons Residential Health Care, indicates that the facility had a net asset deficit, generated an annual operating deficit and maintained a negative working capital position for the period shown.

BFA Attachment E, financial summary of affiliated RHCs, shows the facilities maintained positive net income from operations for 2015 and 2016, as of June 30, with the exception of the following:

- Elderwood at Grand Island (2850 Grand Island Boulevard Operating Company, LLC) demonstrates negative working capital for the period shown. The applicant attributes the negative working capital to the timing of short-term working capital needs (due to the timing of payroll and collections). The facility shows a nominal loss year-to-date 2016, which the applicant attributes to increased prescription drug costs. The applicant anticipates improved results as of the end of the calendar year.
- Elderwood at Cheektowaga (225 Bennett Road Operating Company, LLC) and Elderwood at Hamburg (5775 Maelou Drive Operating Company, LLC) show negative working capital as of December 31, 2015. The applicant attributes the negative working capital to the timing of short-term working capital needs (due to the timing of payroll and collections). While Elderwood at Cheektowaga demonstrates positive operating income through June 30, 2016, the facility experienced a net loss in 2015 which they attributed to a lower than normal census.
- Elderwood at Waverly (37 North Chemung Street Operating Company, LLC) shows positive working capital and positive net income as of December 31, 2015, but an operating loss and negative working capital through June 30, 2016. The applicant attributes the results to extensive renovations, approved under CON 151015, described as requisite renovations to accommodate outpatient therapy services. The applicant believes the associated noise and disruption caused potential residents to choose alternate facilities. However, the applicant believes the facility will show positive operating income by the end of the year and occupancy will return to normal, as the project is complete.

The applicant notes the above referenced entities have access to revolving credit lines that cover temporary negative working capital balances.

It is noted that the proposed operators established membership in the above referenced affiliated facilities as of July 28, 2013. Financial statements for Elderwood at Hornell (1 Bethesda Drive Operating Company, LLC) and Elderwood of Uihlein at Lake Placid (185 Old Military Road Operating Company, LLC) were not evaluated as the applicant was not established as the operator of the facilities until April 12, 2016 and October 4, 2016, respectively.

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.**

## Attachments

BFA Attachment A	Net worth summary, members of Post Acute Partners Acquisition, LLC
BFA Attachment B	Organizational Chart
BFA Attachment C	Pro Forma Balance Sheet, 1019 Wicker Street Operating Company, LLC
BFA Attachment D	Financial Summary, Heritage Commons Residential Health Care
BFA Attachment E	Financial Summary, affiliated nursing home facilities



**Project # 161477-E  
Premier Home Health Care Services, Inc.**

**Program:** Certified Home Health Agency  
**Purpose:** Establishment

**County:** New York  
**Acknowledged:** July 6, 2016

**Executive Summary**

**Description**

Premier Home Health Care Services, Inc. (Premier) is a New York proprietary business corporation that operates an Article 36 Certified Home Health Agency (CHHA) located at 5 Bryant Park, 1065 Avenue of the Americas, 5th Floor, New York. Premier requests approval to acquire and merge HHH Certified Home Health Agency (HHH), a voluntary not-for-profit CHHA located at 55 Grasslands Road in Valhalla, and add Bronx and Westchester County and Homemaker, Housekeeper, Nutritional, Personal Care and Therapy-Respiratory services to their operating certificate. The goal of this acquisition is to expand Premier’s community-based service delivery platform in the New York City, Nassau, Suffolk and Westchester county regions.

Hebrew Hospital Home of Westchester, Inc. (HHHW), which filed for Chapter 11 bankruptcy on January 8, 2016, is the current operator of HHH. On July 22, 2015 (to be effective July 25, 2015), Premier and HHH entered into an Interim Consultative & Management Services Agreement (MSA), subject to approval by the Commissioner of Health as a management agreement in accordance with Title 10 NYCRR §763.11(d). The Department’s Bureau of House Counsel approved the MSA on August 4, 2016. Due to identified patient and compliance concerns expressed by Premier, all of the then existing HHH patients were transferred to other community-based CHHA programs as of July 25, 2016. The CHHA remained operational and open for admissions as Premier implemented a comprehensive reorganization plan under the MSA. As of August 25, 2016, HHH had three active patients that were receiving services. Upon approval by the Public Health and Health

Planning Council (PHHPC) of this application, and subject to patient choice, the patients will transfer to Premier.

It is Premier’s intent to close the HHH Valhalla office location and operate from only Premier’s current New York County location. At this time, there will be no branch office related to the new service area.

The seller indicated that HHHW’s Board of Directors, on the advice of financial consultants, determined to sell the CHHA, as well as its facility, due to ongoing financial instability and the unlikely prospect of regaining financial viability. They retained The Marwood Group (an investment banker) to assist in the identification of qualified purchasers and the solicitation of offers. After review of potential purchasers of the CHHA, they determined it in their best interest to enter into an agreement with Premier. As the seller is in bankruptcy proceedings, the proceeds from the sale of the CHHA are not within their discretion, but subject to review and approval of the bankruptcy court. There is no property relevant to the transaction.

BFA Attachment C presents the organizational chart after the acquisition.

OPCHSM Recommendation  
Contingent Approval

Need Summary  
The applicant is licensed to operate in Kings, New York and Queens Counties. The HHH CHHA is certified to operate in Bronx, Kings,

New York, Queens and Westchester Counties. This proposal to merge HHH CHHA into the Applicant would include adding Bronx and Westchester Counties to the Applicant's operating certificate. Upon approval of this project, HHH CHHA would close and the Applicant would continue to provide the services heretofore provided by the HHH CHHA.

#### Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the stockholders and board members of the applicant Premier Home Health Care Services, Inc., to adversely affect their positions in the organization. The applicant has the appropriate character and competence under Article 36 of the New York State Public Health Law.

#### Financial Summary

There are no project costs associated with this application. The acquisition price for HHH CHHA is \$250,000. Premier will address the acquisition price by cancelling a \$250,000 promissory note between the buyer and the seller. The projected budget is as follows:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,378,695	\$1,564,176
Expenses	<u>\$1,291,907</u>	<u>\$1,392,063</u>
Gain/(Loss)	\$86,788	\$172,113

## 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 promissory note associated with the Asset Purchase Agreement, acceptable to the Department of Health. (BFA)
2. Submission of a copy of the "Final Order" from the Bankruptcy Court for the Southern District of New York (Case 16-10028-MEW), acceptable to the Department of Health. (BFA)

**Approval conditional upon:**

1. The project must be completed within two 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

**December 8, 2016**

## Need Analysis

### Project Description

Premier Home Health Care Services, Inc. (the Applicant) is an existing Certified Home Health Agency (CHHA) located at 5 Bryant Park, 1065 Avenue of the Americas, New York, in New York County. The applicant is requesting CON approval to acquire and merge HHH CHHA, a CHHA located at 55 Grasslands Road, Valhalla. HHH CHHA is currently operated by Hebrew Hospital Home of Westchester Inc., a voluntary not-for-profit corporation. HHH CHHA will be merged into the Applicant organization, and will close.

### Analysis

The services currently offered by the Applicant are listed below. This proposal would add Homemaker, Housekeeper, Nutritional, Personal Care and Respiratory Therapy to the operating certificate of the Applicant, as these services are currently offered by HHH CHHA. The proposal would also add Bronx and Westchester Counties to the operating certificate of the Applicant.

- Baseline Services - CHHA
- Home Health Aide
- Medical Social Services
- Medical Supplies Equipment and Appliances
- Nursing
- Physician Services
- Therapy - Occupational
- Therapy - Physical
- Therapy - Speech Language Pathology

### Conclusion

This proposal to merge Hebrew Hospital Home into Premier Home Health Services will allow the Applicant to realize operational and cost efficiencies while continuing to serve the patients in its care. Upon approval, there will be no disruptions in care since all certifications and counties served will be retained.

### Recommendation

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

## Program Analysis

### Program Description

Premier Home Health Care Services, Inc., a proprietary Article 36 certified home health agency (CHHA), proposes to purchase, acquire and merge Hebrew Hospital Home of Westchester, Inc. d/b/a HHH CHHA, a voluntary Article 36 certified home health agency (CHHA), into the existing Premier Home Health Care Services, Inc. CHHA.

Premier Home Health Care Services, Inc. CHHA is currently approved to serve Kings, New York, and Queens Counties, and is authorized for the services of Home Health Aide, Medical Social Service, Medical Supplies/Equipment/Appliances, Nursing, Physician Services, Therapy-Occupational, Therapy-Physical, and Therapy-Speech Language Pathology. HHH CHHA is currently approved to serve Bronx, Kings, New York, Queens, and Westchester Counties, and is authorized for the services of Home Health Aide, Homemaker, Housekeeper, Medical Social Service, Medical Supplies/Equipment/Appliances, Nursing, Nutritional Services, Personal Care, Therapy-Occupational, Therapy-Respiratory, Therapy-Physical, and Therapy-Speech Language Pathology. As a result of the proposed acquisition and merger of HHH, the Premier Home Health Services, Inc. CHHA will be adding Bronx and Westchester Counties to its approved geographic service area, and will be adding Homemaker, Housekeeper, Nutritional Services, Personal Care, and Therapy-Respiratory to its authorized services. Accordingly, upon acquisition and merger, HHH will officially close, surrender its operating certificate, and terminate its Home Health Agency Medicare Provider Number.

Premier Home Health Care Services, Inc. will remain at its sole practice location office at 5 Bryant Park, 1065 Avenue of the Americas, 5<sup>th</sup> Floor, New York (New York County), and its legal entity / corporate operator, Premier Home Health Care Services, Inc., will remain at 445 Hamilton Avenue, 10<sup>th</sup> Floor, White Plains.

In addition to its New York State Article 36 CHHA, Premier Home Health Care Services, Inc. also currently operates Article 36 Licensed Home Care Services Agencies (LHCSAs) in New York State located in fourteen practice locations, each with its own LHCSA license, under the corporate name of Premier Home Health Care Services, Inc. The corporation Premier Home Health Care Services, Inc., is a registered utilization review agent with Office of Health Insurance Programs (OHIP) Bureau of Managed Care Certification and Surveillance, pursuant to Article 49 of the Public Health Law. The two sole stockholders of Premier Home Health Care Services, Inc., Arthur Schwabe and Paul Schwabe, are also the sole stockholders of the following corporations that operate Article 36 LHCSAs in New York State: Priority Home Care, Inc., consisting of six practice locations each with its own LHCSA license; Barele, Inc., d/b/a Omega Home Health Services, consisting of one practice location and LHCSA license; and At Home, Ltd, consisting of one practice location and LHCSA license.

Premier Home Health Care Services, Inc. also currently operates LHCSAs outside of New York State, under the corporate name of Premier Home Health Care Services, Inc., as follows: in New Jersey located in three LHCSA practice locations, in Connecticut located in one LHCSA practice location, in North Carolina located in five LHCSA practice locations, and in Illinois, located in two LHCSA practice locations. The two sole stockholders of Premier Home Health Care Services, Inc. are also the sole stockholders of the following additional corporations located outside of New York State, as follows: Maranatha Home Care, Inc., d/b/a A Better Health Care, in Florida (LHCSA), consisting of one practice location; Premier Home Health Care of Massachusetts, Inc., in Massachusetts (Domestic Services Agency), consisting of three practice locations; and Premier Live-Ins, Inc., in Massachusetts (Employment / Recruiting / Staffing Agency), consisting of three practice locations.

Premier Home Health Care Services, Inc. is authorized to issue 200 shares of stock at no par value. All shares are currently issued and outstanding, with 100 shares (50%) issued to and held by Arthur Schwabe, and 100 shares (50%) issued to and held by Paul Schwabe.

The members of the Board of Directors of the applicant Premier Home Health Care Services, Inc., are as follows:

**Arthur Schwabe** (50% stockholder/100 shares), Board President  
Occupation: Chief Executive Officer, Premier Home Health Care Services, Inc. (CHHA and LHCSAs)

Affiliations

Premier Home Health Care Services, Inc. (CHHA in NY, and LHCSAs in NY, NJ, CT, NC, IL); Priority Home Care, Inc. (LHCSAs in NY); Barele, Inc., d/b/a Omega Home Health Services (LHCSA in NY); At Home Ltd (LHCSA in NY); Maranatha Home Care, Inc., d/b/a A Better Health Care (LHCSA in FL); Premier Home Health Care of Massachusetts, Inc. (Domestic Service Agencies in MA); and Premier Live-Ins, Inc. (Staffing Agencies in MA).

**Paul Schwabe** (50% stockholder/100 shares),  
Board Vice President, Secretary, and Treasurer  
Occupation: Chief Executive Officer, Premier Staffing (Staffing Agency)

Affiliations

Premier Home Health Care Services, Inc. (CHHA in NY, and LHCSAs in NY, NJ, CT, NC, IL); Priority Home Care, Inc. (LHCSAs in NY); Barele, Inc., d/b/a Omega Home Health Services (LHCSA in NY); At Home Ltd (LHCSA in NY); Maranatha Home Care, Inc., d/b/a A Better Health Care (LHCSA in FL); Premier Home Health Care of Massachusetts, Inc. (Domestic Service Agencies in MA); and Premier Live-Ins, Inc. (Staffing Agencies in MA).

The above named board members, employers, and affiliations revealed no matches on either the Medicaid Disqualified Provider List or the Office of the Inspector General's Provider Exclusion List.

A seven year review of the compliance/enforcement history of the New York State operations of the following CHHA and LHCSAs was performed as part of this review:

- Premier Home Health Care Services, Inc. CHHA (1 location/operating certificate)
- Premier Home Health Care Services, Inc. LHCSAs (14 locations/licenses)
- Priority Home Care, Inc. LHCSAs (6 locations/licenses)
- Barele, Inc., d/b/a Omega Home Health Services LHCSA (1 location/license)
- At Home, Ltd LHCSA (1 location/license).

The New York State Department of Health's Division of Home and Community Based Services reviewed the compliance history of the affiliated certified home health agency and licensed home care service agencies in New York State listed above, for the time period 2009 to present. It has been determined that the New York State certified home health agency and licensed home care service agencies have been in substantial compliance with all applicable codes, rules, and regulations, with no enforcement or administrative actions imposed during that time.

A seven year review of the compliance/enforcement history of the out-of-state operations of the following LHCSAs were requested from each regulating state:

- New Jersey - Premier Home Health Care Services, Inc. LHCSAs (3 locations/licenses)
- Connecticut – Premier Home Health Care Services, Inc. LHCSA (1 location/license)
- North Carolina - Premier Home Health Care Services, Inc. LHCSAs (5 locations/licenses)
- Illinois - Premier Home Health Care Services, Inc. LHCSAs (2 locations/licenses)
- Florida - Maranatha Home Care, Inc., d/b/a A Better Health Care LHCSA (1 location/license)
- Massachusetts - Premier Home Health Care of Massachusetts, Inc. Domestic Agencies (3 locations/licenses)

New Jersey, Connecticut and Illinois all reported that all of their Premier Home Health Care Services, Inc. LHCSA providers are all in current compliance, with no enforcement or administrative actions taken against any of them within the previous seven years.

Massachusetts reported that all three of their Premier Home Health Care of Massachusetts, Inc. providers are all agencies that provide domestic services such as home companion care, housekeeping, caretaking, laundering, cooking, etc. Massachusetts reports that such agencies do not require active licensure or registration by the Massachusetts Department of Labor Standards.

To date, we have not received any responses from North Carolina or Florida. The applicant has submitted a signed and notarized affidavit stating that, to the best of the applicant's knowledge, all of their affiliated providers in North Carolina and Florida are currently in compliance, with no enforcements or administrative actions taken against them within the previous seven years.

#### Conclusion

A review of all personal qualifying information indicates there is nothing in the background of the stockholders and board members of the applicant Premier Home Health Care Services, Inc., to adversely affect their positions in the organization. The applicant has the appropriate character and competence under Article 36 of the New York State Public Health Law.

#### Recommendation

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

## Financial Analysis

### Asset Purchase Agreement

The applicant provided an executed Asset Purchase Agreement (APA), to be effective with approval of the PHHPC and the "Final Order" from the Bankruptcy Court for the Southern District of New York, Manhattan Division (Case 16-10028-MEW). The terms are summarized below:

Effective Date:	July 22, 2015
Seller:	Hebrew Hospital Home of Westchester, Inc.
Buyer:	Premier Home Health Care Services, Inc.
Sellers Corporate Office:	55 Grasslands Road, Valhalla, NY 10595
Purchased Assets:	NYSDOH CHHA Operating Certificate No. 700613, effective 7/7/14; data and records pertaining to the business; supplies, medical supplies and inventory; telephone numbers used by the business; intangible property used exclusively in the business; and rights of the seller under warranties relating to tangible assets. Free and clear of all encumbrances.
Excluded Assets:	All cash and cash equivalents and deposit accounts; accounts receivable; corporate minutes, stock books, tax returns and financial records; insurance policies; personnel records; claims for refunds; seller's third-party payor reimbursement numbers; assets and properties identified as corporate assets or used in other businesses of Seller or its affiliates; any assets sold or intangible personal property suspended or sold in the ordinary course of business prior to the closing date; bank account of seller and; computer software or programs which are proprietary.
Assumed Liabilities:	Liabilities and obligations (including accounts payable) out of operations from and after the Closing Date.
Excluded Liabilities:	Claims arising out of breach of seller or negligence prior to contract date; liabilities under collective bargaining agreement
Purchase Price:	\$250,000
Payment of Purchase Price:	Paid by means of cancellation of Loan Amount (as defined by the associated Promissory Note).

The applicant states that no liabilities will be assumed upon approval by the PHHPC.

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 HHH-CHHA and/or surcharges, assessments or fees due from the transferor pursuant to Article 36 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 CHHA had only nominal Medicaid liabilities outstanding as of July 22, 2016.

### Promissory Note

The applicant provided a draft copy of the Promissory Note, summarized below:

Borrower:	Hebrew Hospital Home of Westchester, Inc.
Holder:	Premier Home Health Care Services, Inc.
Loan Amount:	\$250,000 loaned on July 25, 2015 per the APA (to be offset against the purchase price at Closing)
Interest:	None
Maturity Date:	Closing of the APA
Conditions:	The borrower is under no obligation to make payments prior to the maturity date; in the event the associated APA is validly terminated then the Loan Amount becomes payable.

Interim Consultative & Management Services Agreement

The applicant provided an executed Interim Consultative & Management Services Agreement (MSA), which is summarized below:

Date:	July 22, 2015 (signatory date) to be effective July 25, 2015*
Agency:	Hebrew Hospital Home of Westchester, Inc.
Manager:	Premier Home Health Care Services, Inc.
Agency Location:	55 Grasslands Road, Valhalla, NY 10595
Responsibilities of Manager:	Conduct, supervise and manage the day-to-day operation of the CHHA including but not limited to: operational and fiscal plan, selection/provision of management staff, operational management, nursing liaisons, administrative support, patient intake, OASIS preparation, patient assessment and care planning, patient and employee supervision, quality assurance program, emergency disaster plan development/implementation, subcontract field personnel selection, selection of all vendors and medical supply vendors, training, compliance and scheduling, insurance and payer verification, reporting, billing and collection, financing, operating insurance (if applicable), payment of operating costs, dissemination of all such revenues collected.
Term:	Three years from the Effective Date
Compensation:	An amount equal to the income earned by the Agency CHHA.
Notes:	All employees providing services shall be employees of the manager, with their compensation, benefits and expenses the responsibility of the manager. All income and revenue from the activities of the agency on or after the Effective Date shall be deposited into accounts in the name of Agency. Any purchase or lease of real property shall be at the sole cost of the manager however, the Agency will be liable for existing leases. Agency consents to the Manager relocating the CHHA to 445 Hamilton Avenue, 10th floor, White Plains, NY 10601. The Governing Authority and the Agency shall retain full legal authority over the operation of Agency services.

\* As of August 4, 2016, the Department's Bureau of House Counsel approved the MSA.

Operating Budget

The applicant has submitted the projected incremental first and third year operating budgets, in 2016 dollars, as summarized below:

	<u>Year One</u>	<u>Year Three</u>
<u>Revenues</u>		
Commercial	\$99,000	\$126,000
Medicare	1,240,000	1,395,000
Medicaid	<u>39,695</u>	<u>43,176</u>
Total Revenues	\$1,378,695	\$1,564,176
<u>Expenses</u>		
Operating	\$1,155,707	\$1,251,746
Capital	<u>136,200</u>	<u>140,317</u>
Total Expenses	\$1,291,907	\$1,392,063
Net Income or (Loss)	\$86,788	\$172,113
Utilization (Cases)	500	562
Utilization (Visits)	6,554	7,367
Utilization (Hours)	1,382	1,556

The budget reflects Premier's projected pro-forma revenues and expense. Operating under the terms of the MSA, the applicant stated that they have not maintained and do not possess available separate internal financial statements for this operation. Premier separated the revenue and expenses relative to this operation effective July 1, 2016, and will continue to do so on a going forward basis. According to the applicant, 2015 HHH's financial statements are not available.

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

	<u>Year One</u>		<u>Year Three</u>	
	<u>Cases</u>	<u>%</u>	<u>Cases</u>	<u>%</u>
Commercial	75	15%	84	15%
Medicare	400	80%	450	80%
Medicaid	15	3%	17	3%
Charity	<u>10</u>	<u>2%</u>	<u>11</u>	<u>2%</u>
	500	100%	562	100%

Charity Care is expected to be 2%. In the event that the consumer is ineligible for Medicare, Medicaid or other insurance coverage, or has exhausted their payment resources, the applicant will provide services free of charge. The applicant will credit this amount toward the charity care expectation.

Rate and revenue projections are as follows:

- The majority of the applicant's business is Medicare.
- Medicare revenue is based on an average episodic payment of \$3,100, which they expect to remain constant through Year Three. The applicant expects Medicare revenue growth through an expected 12.5% increase in cases and visits.
- Growth in Commercial and Medicaid utilization is projected, commensurate with the projected increase in Medicare utilization. However, the Medicaid reimbursement rate is expected to drop 4.43% reducing the expected increase in revenue. The Commercial rate is expected to increase 13.64% by Year Three. The combined Commercial and Medicaid revenue growth is nominal and, if eliminated, would have no impact on the entity's projected net income.

The applicant states that all census assumptions, expenses and revenues are based on historical experience of Premier's existing CHHA operations and associated revenues and costs.

#### Capability and Feasibility

The \$250,000 purchase price for the CHHA assets will be addressed by cancelling a loan to the seller of equal value.

The working capital requirement is estimated at \$215,318 based on two months of first year expenses. Funds will be provided from the ongoing operations of Premier Home Health Care Services, Inc.

Premier projects the first and third years will show surpluses of \$86,788 and \$172,113, respectively. BFA Attachment D is the pro forma balance sheet, which shows \$750,000 in equity. The budget appears to be reasonable.

BFA Attachments A is Premier Home Health Care Services, Inc.'s 2014 and 2015 certified financial statements, which shows the entity maintained negative working capital, average positive net income of \$6,398,439, and had an average equity position of \$18,372,216. BFA Attachment B is Premier Home Health Care Services, Inc.'s internal financial statement as of June 30, 2016, which shows \$14,163,169 in net income, and \$30,407,391 in equity and demonstrates the facility reduced their negative working capital position.

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 2014 and 2015 certified financial statements, Premier Home Health Care Services, Inc.
- BFA Attachment B June 30, 2016 internal financial statements, Premier Home Health Care Services, Inc.
- BFA Attachment C Organizational Chart, Premier Home Health Care Services, Inc.
- BFA Attachment D Pro Forma Balance Sheet

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Cobbs Hill Manor, Inc.  
Address: Rochester  
County: Monroe  
Structure: For-Profit Corporation  
Application Number: 161454

Description of Project:

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

This LHCSA will be associated with an Assisted Living Program to be operated by Cobbs Hill Manor, Inc. The LHCSA and the ALP will have identical ownership.

The applicant has authorized 200 shares of stock, which are owned as follows: David Tosoetto owns 50 shares, David Stapleton owns 50 shares. The remaining 100 shares are unissued.

The Board of Directors of Cobbs Hill Manor, Inc. comprises the following individuals:

David M. Tosoetto, CEO/President/Treasurer  
Manager, David Communities, LLC

Affiliation:

Mount View Assisted Living, Inc. (2015-present)

David Stapleton, Vice President/Secretary  
Manager, David Communities, LLC  
Owner, David Homes and Vanderbilt Properties

Affiliation:

Mount View Assisted Living, Inc. (2015-present)

A search of the individuals and entity 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 Monroe County from an office located at 1175 Monroe Avenue, Rochester, New York 14620:

The applicant proposes to provide the following health care services:

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

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

Mount View Assisted Living, Inc. (2015-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.

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: September 15, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Argyle Center LHCSA, LLC d/b/a Centers Home Care North East  
Address: Argyle  
County: Washington  
Structure: Limited Liability Company  
Application Number: 162015

Description of Project:

Argyle Center LHCSA, LLC d/b/a Centers Home Care North East, a to be formed limited liability company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

This LHCSA will be associated with the Assisted Living Program, to be operated by Washington AH Operations LLC d/b/a Argyle Center for Independent Living. The LHCSA and the ALP will have identical ownership.

The proposed membership of Argyle Center LHCSA, LLC comprises the following individuals:

Kenneth Rozenberg, EMT, NHA (NY and NJ) Managing Member – 90%  
Chief Executive Officer, Centers Health Care  
Chief Executive Officer, Bronx Center for Rehabilitation & Health Care

Affiliations:

- Amazing Home Care (LHCSA) 05/2006 to present
- Banister Center for Rehabilitation (Rhode Island) 08/2016 to present
- Boro Park Center for Rehabilitation and Healthcare 05/2011 to present
- Bronx Center for Rehabilitation and Health Care 10/1997 to present
- Bronx Center for Renal Dialysis (D&TC) 01/2011 to present
- Brooklyn Center for Rehabilitation and Residential Health Care 05/2007 to present
- Buffalo Center for Rehabilitation and Nursing (FKA Delaware Nursing & Rehab Center (Receivership) 06/2014 to 12/2015
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care (fka Wartburg Lutheran Home for the Aging) (receiver) 06/2008 to 05/2011
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Bushwick Center for Renal Dialysis (D&TC) 06/2014 to present
- Center Plan for Health Living (MLTC) 01/2013 to present
- Centers Home Health Revival (fka Alpine Home Health Care) (CHHA) 07/2008 to present
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Daughters of Jacob Nursing Home Company (receiver) 08/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2004 to 03/2016
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 11/2010 to present
- Hope Center for HIV and Nursing Care 04/2015 to present
- Indian River Rehabilitation and Nursing Center 12/2014 to present
- Northwoods Rehabilitation and Nursing Center at Moravia 11/2014 to 03/2016
- Park View Center for Rehabilitation and Healthcare (Rhode Island) 05/2016 to present
- Queens Center for Rehabilitation and Residential Health Care 10/2004 to 03/2016

- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present
- Senior Care Emergency Ambulance Services (EMS) 06/2005 to present
- Steuben Center for Rehabilitation and Healthcare 07/2014 to present
- The Grand Rehabilitation and Nursing at Chittenango (FKA Stonehedge Health & Rehabilitation Center – Chittenango) (REC) 07/2008 to 04/2011
- The Grand Rehabilitation and Nursing at Chittenango 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome (FKA Stonehedge Health & Rehabilitation Center – Rome) (receiver) 07/2008 to 04/2011
- The Grand Rehabilitation and Nursing at Rome 05/2011 to present
- University Nursing Home 08/2001 to present
- Washington Center for Rehabilitation and Healthcare 02/2014 to present
- Waterfront Center for Rehabilitation and Healthcare (receiver) 08/2011 to 12/2012
- Waterfront Center for Rehabilitation and Healthcare 12/2012 to present
- Williamsbridge Manor Nursing Home 11/1996 to present
- Wartburg Nursing Home (receiver) 06/2008 to 05/2011
- Washington Center Adult Home (AH) 02/2014 to present

Jeffrey M. Sicklick, Member, NHA (NY and NJ) – 10%  
Administrator, Bronx Center for Rehabilitation

Affiliations:

- Boro Park Center for Rehabilitation and Healthcare 05/2011 to 04/2016
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2004 to 11/2015
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 05/2013 to present
- Queens Center for Rehabilitation and Residential Health Care 02/2008 to 10/2015
- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present
- Steuben Center for Rehabilitation and Healthcare 07/2014 to present
- The Grand Rehabilitation and Nursing at Chittenango 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome 05/2011 to present
- Washington Center for Rehabilitation and Healthcare 02/2014 to present
- Waterfront Center for Rehabilitation and Healthcare 01/2013 to present
- Washington Center Adult Home (AH) 02/2014 to present

A search of the individuals (and entities where appropriate) named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The Bureau of Professional Credentialing has indicated that Kenneth Rozenberg NHA license #04036 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The State of New Jersey has indicated that Kenneth Rozenberg NHA license #2841 holds an active NHA license which expires June 30, 2017.

The Bureau of Professional Credentialing has indicated that Jeffrey M. Sicklick NHA license #03579 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The Bureau of Emergency Medical Services has indicated that Kenneth Rozenberg holds a Paramedic Certification #082942 and is in good standing. Disciplinary action against this individual or his certification has never been taken.

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

- Amazing Home Care
- Banister Center for Rehabilitation (Rhode Island) 08/2016 to present
- Boro Park Center for Rehabilitation and Healthcare 05/2011 to present
- Bronx Center for Rehabilitation and Health Care
- Bronx Center for Renal Dialysis 01/2011 to present
- Brooklyn Center for Rehabilitation and Residential Health Care 08/2009 to present
- Buffalo Center for Rehabilitation and Nursing (fka Delaware Nursing & Rehab Center) 06/2014 to 12/2015
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care (fka Wartburg Lutheran Home for the Aging) 08/2009 to 05/2011
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Bushwick Center for Renal Dialysis 06/2014 to present
- Center Plan for Health Living 01/2013 to present
- Centers Home Health Revival (fka Alpine Home Health Care)
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Daughters of Jacob Nursing Home Company 08/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2009 to 03/2016
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 11/2010 to present
- Hope Center for HIV and Nursing Care 04/2015 to present
- Indian River Rehabilitation and Nursing Center 12/2014 to present
- Northwoods Rehabilitation and Nursing Center at Moravia 11/2014 to 03/2016
- Park View Center for Rehabilitation and Healthcare 05/2016 to present
- Queens Center for Rehabilitation and Residential Health Care 08/2009 to 03/2016
- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present
- Senior Care Emergency Ambulance Services, Inc.
- Steuben Center for Rehabilitation and Healthcare 07/2014 to present
- The Grand Rehabilitation and Nursing at Chittenango (fka Stonehedge Health & Rehab Center – Chittenango) 08/2009 to 04/2011
- The Grand Rehabilitation and Nursing at Chittenango 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome (fka Stonehedge Health & Rehabilitation Center – Rome) 08/2009 to 04/2011
- The Grand Rehabilitation and Nursing at Rome 05/2011 to present
- University Nursing Home 08/2009 to present
- Washington Center for Rehabilitation and Healthcare 02/2014 to present
- Waterfront Center for Rehabilitation and Healthcare 08/2011 to 12/2012
- Waterfront Center for Rehabilitation and Healthcare 12/2012 to present
- Williamsbridge Manor Nursing Home
- Wartburg Nursing Home 08/2009 to 05/2011
- Washington Center Adult Home 02/2014 to present

The information provided by the Division of Home and Community Based Services has indicated that the home care agencies reviewed, for the periods identified above reveals the following:

**Alpine Home Health Care** was fine one thousand dollars (\$1,000) pursuant to a Stipulation dated February 3, 2014 for not responding to Emergency Preparedness survey.

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 Bureau of Quality and Surveillance has indicated that the residential health care facilities reviewed, for the periods identified above, reveals the following:

**Bronx Center for Rehabilitation and Health Care** was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated August 25, 2011 for surveillance findings on April 16, 2010. Deficiencies were found under 10 NYCRR 415.12 (h)(2) Quality of Care: Accidents and Supervision and 415.26 Administration.

**Essex Center for Rehabilitation and Health Care** was fined six thousand dollars (\$6,000) pursuant to a Stipulation and Order dated March 9 2016 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.26 Administration; and 415.27(a-c) Administration: Quality Assessment and Assurance.

**Fulton Center for Rehabilitation and Healthcare** was fined fifty-two thousand dollars (\$52,000) pursuant to a Stipulation and Order dated January 5, 2016 for surveillance findings on June 11, 2012, May 5, 2013, and November 21, 2013. Deficiencies were found under 10 NYCRR 451.3(e)(2)(ii)(b) Notification of Changes; 415.12 Quality of Care: Highest Practical Potential; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(c)(2) Quality of Care: Pressure Sores; 415.12(i)(1) Quality of Care: Nutrition; 415.26 Administration; 415.27(a-c) Quality Assurance; and 415.4(b)(1)(2)(3) Investigate/Report Allegation.

**Northwoods Rehabilitation and Nursing Center at Moravia** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated January 13, 2016 for surveillance findings on February 6, 2015. Deficiencies were found under 10 NYCRR 415.26 Administration.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated January 25, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined ten thousand dollars (\$10,000) pursuant to a Stipulation and Order dated March 9, 2016 for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined eighteen thousand dollars (\$18,000) pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.

**Stonehedge Health & Rehabilitation Center - Chittenango** (nka: The Grand Rehabilitation and Nursing at Chittenango) was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated November 15, 2010 for surveillance findings on October 22, 2009. Deficiencies were found under 10 NYCRR 415.12(h)(1, 2) Quality of Care: Accidents and Supervision; and 415.26(b)(3)(4) Governing Body.

**Chittenango Center for Rehabilitation and Health Care** (nka: The Grand Rehabilitation and Nursing at Chittenango) was fined twenty thousand dollars (\$20,000) pursuant to a Stipulation and Order dated February 17, 2012 for surveillance findings on January 20, 2011. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores; and 415.12(d)(1) Quality of Care: Catheters.

**Washington Center for Rehabilitation and Healthcare** was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated April 6, 2016 for surveillance findings on September 11, 2015. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care: Accident Free Environment; and 415.27(a-c) Administration: Quality Assessment and Assurance.

**Waterfront Center for Rehabilitation and Healthcare** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated April 24, 2013 for surveillance findings on September 27, 2011. Deficiencies were found under 10 NYCRR 415.12(h)(1)(2) Quality of Care: Accidents and Supervision.

**Waterfront Center for Rehabilitation and Healthcare** was fined was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated April 6, 2016 for surveillance findings on May 23, 2012. Deficiencies were found under 10 NYCRR 415.12(c)(2) Quality of Care: Pressure Sores.

**Waterfront Center for Rehabilitation and Healthcare** was fined twenty-four thousand dollars (\$24,000) pursuant to a Stipulation dated April 19, 2016 for surveillance findings on November 6, 2015. Deficiencies were found under 10 NYCRR 415.12(m)(2) Quality of Care: No Significant Med Errors; 415.12 Quality of Care: Highest Practicable Potential; 415.12(l)(1) Quality of Care: Unnecessary Drugs; 415.18(a) Pharmacy Services: Facility Must Provide Routine and Emergency Drugs in a Timely Manner; 415.18(c)(2) Pharmacy Services: the Drug Regimen of Each Resident Must be Reviewed at Least Once a Month By Licensed Pharmacist; 415.4(b)(2)(3) Investigate/Report Allegations Individuals; 415.26 Administration; and 415.27(c)(2)(3)(v) Administration: Quality Assessment and Assurance.

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 Bureau of Emergency Medical Services and Trauma Systems 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 Division of Hospitals and Diagnostic & Treatment Centers 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 Division of Adult Care Facilities and Assisted Living Surveillance 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 Division of Hospitals and Diagnostic & Treatment Centers 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 State of Rhode Island has indicated that Banister Center for Rehabilitation and Park View Center for Rehabilitation and Healthcare have 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 4573 State Route 40, Argyle, New York 12809:

Albany	Columbia	Dutchess
Essex	Fulton	Greene
Montgomery	Rensselaer	Saratoga
Schenectady	Warren	Washington

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Respiratory Therapy	Occupational Therapy
Speech-Language Pathology	Audiology	Medical Social Services
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: October 26, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Bath Center LHCSA LLC d/b/a Centers Home Care West  
Address: Bath  
County: Steuben  
Structure: Limited Liability Company  
Application Number: 162016

Description of Project:

Bath Center LHCSA LLC d/b/a Centers Home Care West, a to be formed limited liability company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

This LHCSA will be associated with Assisted Living Program to be operated by Bath Center ALP LLD d/b/a Bath Center for Independent Living. The LHCSA and the ALP will have identical ownership.

The proposed membership of Bath Center LHCSA LLC d/b/a Centers Home Care West comprises the following individuals:

Kenneth Rozenberg, EMT, NHA (NY and NJ) Managing Member – 92%  
Chief Executive Officer, Centers Health Care  
Chief Executive Officer, Bronx Center for Rehabilitation & Health Care

Affiliations:

- Amazing Home Care (LHCSA) 05/2006 to present
- Banister Center for Rehabilitation (Rhode Island) 08/2016 to present
- Boro Park Center for Rehabilitation and Healthcare 05/2011 to present
- Bronx Center for Rehabilitation and Health Care 10/1997 to present
- Bronx Center for Renal Dialysis (D&TC) 01/2011 to present
- Brooklyn Center for Rehabilitation and Residential Health Care 05/2007 to present
- Buffalo Center for Rehabilitation and Nursing (FKA Delaware Nursing & Rehab Center (Receivership) 06/2014 to 12/2015
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care (fka Wartburg Lutheran Home for the Aging) (receiver) 06/2008 to 05/2011
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Bushwick Center for Renal Dialysis (D&TC) 06/2014 to present
- Center Plan for Health Living (MLTC) 01/2013 to present
- Centers Home Health Revival (fka Alpine Home Health Care) (CHHA) 07/2008 to present
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Daughters of Jacob Nursing Home Company (receiver) 08/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2004 to 03/2016
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 11/2010 to present
- Hope Center for HIV and Nursing Care 04/2015 to present
- Indian River Rehabilitation and Nursing Center 12/2014 to present
- Northwoods Rehabilitation and Nursing Center at Moravia 11/2014 to 03/2016
- Park View Center for Rehabilitation and Healthcare (Rhode Island) 05/2016 to present

- Queens Center for Rehabilitation and Residential Health Care 10/2004 to 03/2016
- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present
- Senior Care Emergency Ambulance Services (EMS) 06/2005 to present
- Steuben Center for Rehabilitation and Healthcare 07/2014 to present
- The Grand Rehabilitation and Nursing at Chittenango (FKA Stonehedge Health & Rehabilitation Center – Chittenango) (REC) 07/2008 to 04/2011
- The Grand Rehabilitation and Nursing at Chittenango 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome (FKA Stonehedge Health & Rehabilitation Center – Rome) (receiver) 07/2008 to 04/2011
- The Grand Rehabilitation and Nursing at Rome 05/2011 to present
- University Nursing Home 08/2001 to present
- Washington Center for Rehabilitation and Healthcare 02/2014 to present
- Waterfront Center for Rehabilitation and Healthcare (receiver) 08/2011 to 12/2012
- Waterfront Center for Rehabilitation and Healthcare 12/2012 to present
- Williamsbridge Manor Nursing Home 11/1996 to present
- Wartburg Nursing Home (receiver) 06/2008 to 05/2011
- Washington Center Adult Home (AH) 02/2014 to present

David S. Greenberg, LNHA (NY and NJ) – 5%  
 Administrator, Boro Park Center for Rehabilitation and Healthcare

Affiliations:

- Corning Center for Rehabilitation & Healthcare 2013-present
- Steuben Center for Rehabilitation & Healthcare 2014-present
- Warren Center for Rehabilitation and Nursing 2016-present

Jeffrey M. Sicklick, Member, NHA (NY and NJ) – 3%  
 Administrator, Bronx Center for Rehabilitation

Affiliations:

- Boro Park Center for Rehabilitation and Healthcare 05/2011 to 04/2016
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2004 to 11/2015
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 05/2013 to present
- Queens Center for Rehabilitation and Residential Health Care 02/2008 to 10/2015
- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present
- Steuben Center for Rehabilitation and Healthcare 07/2014 to present
- The Grand Rehabilitation and Nursing at Chittenango 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome 05/2011 to present
- Washington Center for Rehabilitation and Healthcare 02/2014 to present
- Waterfront Center for Rehabilitation and Healthcare 01/2013 to present
- Washington Center Adult Home (AH) 02/2014 to present

A search of the individuals (and entities where appropriate) named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The Bureau of Professional Credentialing has indicated that Kenneth Rozenberg NHA license #04036 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The State of New Jersey has indicated that Kenneth Rozenberg NHA license #2841 holds an active NHA license which expires June 30, 2017.

The Bureau of Professional Credentialing has indicated that David S. Greenberg NHA license #04990 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The State of New Jersey has indicated that David S. Greenberg NHA license #2050 holds an active NHA license which expires June 30, 2017.

The Bureau of Professional Credentialing has indicated that Jeffrey M. Sicklick NHA license #03579 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The Bureau of Emergency Medical Services has indicated that Kenneth Rozenberg holds a Paramedic Certification #082942 and is in good standing. Disciplinary action against this individual or his certification has never been taken.

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

- Amazing Home Care
- Banister Center for Rehabilitation (Rhode Island) 08/2016 to present
- Boro Park Center for Rehabilitation and Healthcare 05/2011 to present
- Bronx Center for Rehabilitation and Health Care
- Bronx Center for Renal Dialysis 01/2011 to present
- Brooklyn Center for Rehabilitation and Residential Health Care 08/2009 to present
- Buffalo Center for Rehabilitation and Nursing (fka Delaware Nursing & Rehab Center) 06/2014 to 12/2015
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care (fka Wartburg Lutheran Home for the Aging) 08/2009 to 05/2011
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Bushwick Center for Renal Dialysis 06/2014 to present
- Center Plan for Health Living 01/2013 to present
- Centers Home Health Revival (fka Alpine Home Health Care)
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Daughters of Jacob Nursing Home Company 08/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2009 to 03/2016
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 11/2010 to present
- Hope Center for HIV and Nursing Care 04/2015 to present
- Indian River Rehabilitation and Nursing Center 12/2014 to present
- Northwoods Rehabilitation and Nursing Center at Moravia 11/2014 to 03/2016
- Park View Center for Rehabilitation and Healthcare 05/2016 to present
- Queens Center for Rehabilitation and Residential Health Care 08/2009 to 03/2016
- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present

- Senior Care Emergency Ambulance Services, Inc. 07/2014 to present
- Steuben Center for Rehabilitation and Healthcare 08/2009 to 04/2011
- The Grand Rehabilitation and Nursing at Chittenango (fka Stonehedge Health & Rehab Center – Chittenango) 05/2011 to present
- The Grand Rehabilitation and Nursing at Chittenango 08/2009 to 04/2011
- The Grand Rehabilitation and Nursing at Rome (fka Stonehedge Health & Rehabilitation Center – Rome) 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome 08/2009 to present
- University Nursing Home 01/2016 to present
- Warren Center for Rehabilitation and Nursing 02/2014 to present
- Washington Center for Rehabilitation and Healthcare 08/2011 to 12/2012
- Waterfront Center for Rehabilitation and Healthcare 12/2012 to present
- Waterfront Center for Rehabilitation and Healthcare 08/2011 to 12/2012
- Williamsbridge Manor Nursing Home 08/2009 to 05/2011
- Wartburg Nursing Home 02/2014 to present
- Washington Center Adult Home 02/2014 to present

The information provided by the Division of Home and Community Based Services has indicated that the home care agencies reviewed, for the periods identified above reveals the following:

**Alpine Home Health Care** was fine one thousand dollars (\$1,000) pursuant to a Stipulation dated February 3, 2014 for not responding to Emergency Preparedness survey.

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 Bureau of Quality and Surveillance has indicated that the residential health care facilities reviewed, for the periods identified above, reveals the following:

**Bronx Center for Rehabilitation and Health Care** was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated August 25, 2011 for surveillance findings on April 16, 2010. Deficiencies were found under 10 NYCRR 415.12 (h)(2) Quality of Care: Accidents and Supervision and 415.26 Administration.

**Essex Center for Rehabilitation and Health Care** was fined six thousand dollars (\$6,000) pursuant to a Stipulation and Order dated March 9 2016 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.26 Administration; and 415.27(a-c) Administration: Quality Assessment and Assurance.

**Fulton Center for Rehabilitation and Healthcare** was fined fifty-two thousand dollars (\$52,000) pursuant to a Stipulation and Order dated January 5, 2016 for surveillance findings on June 11, 2012, May 5, 2013, and November 21, 2013. Deficiencies were found under 10 NYCRR 451.3(e)(2)(ii)(b) Notification of Changes; 415.12 Quality of Care: Highest Practical Potential; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(c)(2) Quality of Care: Pressure Sores; 415.12(i)(1) Quality of Care: Nutrition; 415.26 Administration; 415.27(a-c) Quality Assurance; and 415.4(b)(1)(2)(3) Investigate/Report Allegation.

**Northwoods Rehabilitation and Nursing Center at Moravia** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated January 13, 2016 for surveillance findings on February 6, 2015. Deficiencies were found under 10 NYCRR 415.26 Administration.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated January 25, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined ten thousand dollars (\$10,000) pursuant to a Stipulation and Order dated March 9, 2016 for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined eighteen thousand dollars (\$18,000) pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.

**Stonehedge Health & Rehabilitation Center - Chittenango** (nka: The Grand Rehabilitation and Nursing at Chittenango) was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated November 15, 2010 for surveillance findings on October 22, 2009. Deficiencies were found under 10 NYCRR 415.12(h)(1, 2) Quality of Care: Accidents and Supervision; and 415.26(b)(3)(4) Governing Body.

**Chittenango Center for Rehabilitation and Health Care** (nka: The Grand Rehabilitation and Nursing at Chittenango) was fined twenty thousand dollars (\$20,000) pursuant to a Stipulation and Order dated February 17, 2012 for surveillance findings on January 20, 2011. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores; and 415.12(d)(1) Quality of Care: Catheters.

**Washington Center for Rehabilitation and Healthcare** was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated April 6, 2016 for surveillance findings on September 11, 2015. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care: Accident Free Environment; and 415.27(a-c) Administration: Quality Assessment and Assurance.

**Waterfront Center for Rehabilitation and Healthcare** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated April 24, 2013 for surveillance findings on September 27, 2011. Deficiencies were found under 10 NYCRR 415.12(h)(1)(2) Quality of Care: Accidents and Supervision.

**Waterfront Center for Rehabilitation and Healthcare** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated April 6, 2016 for surveillance findings on May 23, 2012. Deficiencies were found under 10 NYCRR 415.12(c)(2) Quality of Care: Pressure Sores.

**Waterfront Center for Rehabilitation and Healthcare** was fined twenty-four thousand dollars (\$24,000) pursuant to a Stipulation dated April 19, 2016 for surveillance findings on November 6, 2015. Deficiencies were found under 10 NYCRR 415.12(m)(2) Quality of Care: No Significant Med Errors; 415.12 Quality of Care: Highest Practicable Potential; 415.12(l)(1) Quality of Care: Unnecessary Drugs; 415.18(a) Pharmacy Services: Facility Must Provide Routine and Emergency Drugs in a Timely Manner; 415.18(c)(2) Pharmacy Services: the Drug Regimen of Each Resident Must be Reviewed at Least Once a Month By Licensed Pharmacist; 415.4(b)(2)(3) Investigate/Report Allegations Individuals; 415.26 Administration; and 415.27(c)(2)(3)(v) Administration: Quality Assessment and Assurance.

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 Bureau of Emergency Medical Services and Trauma Systems 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 Division of Hospitals and Diagnostic & Treatment Centers 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 Division of Adult Care Facilities and Assisted Living Surveillance 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 Division of Hospitals and Diagnostic & Treatment Centers 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 State of Rhode Island has indicated that Banister Center for Rehabilitation and Park View Center for Rehabilitation and Healthcare have 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 7002 Mt. Washington Road, Bath, New York 14810:

Chemung	Genesee	Livingston	Monroe
Ontario	Schuyler	Steuben	Wayne
Yates			

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Respiratory Therapy	Occupational Therapy
Speech-Language Pathology	Audiology	Medical Social Services
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: October 26, 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 effective September 29, 2015. 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 will be owned by Polina Mesh.

The Board of Directors of Helping U Homecare, Inc. will be 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: October 25, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Crown of Life Care NY, LLC  
Address: Brooklyn  
County: Kings  
Structure: Limited Liability Company  
Application Number: 161111

Description of Project:

Crown of Life Care NY, 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. This application amends and supersedes application number 2389L which was contingently approved by the Public Health and Health Planning Council at the February 18, 2015 meeting. At that time the membership of Crown of Life Care NY, LLC consisted of Toby Kahan (95%) and Caroline Nonan, RN (5%). This application was submitted due to the withdrawal of Caroline Nonan from the membership of the limited liability company.

Crowne of Life Care, Inc. was previously approved as a home care services agency by the Public Health Council at its May 16, 2003 meeting and subsequently licensed 1180L001.

The following individual is the sole member of Crown of Life Care NY, LLC:

Toby Kahan  
Administrator, Crowne of Life Care, Inc.

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 4626 New Utrecht Avenue, Brooklyn, New York 11219:

Bronx	Kings	Nassau	New York
Queens	Richmond		

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care	Medical Social Services
Occupational Therapy	Respiratory Therapy	Audiology	Speech-Language Pathology
Physical Therapy	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: November 3, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: All Metro Aids, Inc.  
d/b/a All Metro Health Care  
Address: New York  
County: New York  
Structure: For-Profit Corporation  
Application Number: 161146

Description of Project:

All Metro Aids, Inc. d/b/a All Metro Health Care, 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.

All Metro Aids, Inc. d/b/a All Metro Health Care was previously approved as a home care services agency by the Public Health Council at its November 19, 2010 meeting and subsequently assigned license number 1905L001 effective September 26, 2011.

The currently approved organizational structure of All Metro Aids, Inc. d/b/a All Metro Health Care is All Metro Health Care Services, Inc. is the sole shareholder of All Metro Aids, Inc. d/b/a All Metro Health Care. The sole shareholder of All Metro Health Care Services, Inc. is AM Holdco, Inc. The sole shareholder of AM Holdco, Inc. is AM Intermediate Holdco, Inc. The sole shareholder of AM Intermediate Holdco, Inc. is AM Holdco, LLC.

In this proposal, OEP AM, Inc., a Delaware corporation, proposes to purchase all 1000 shares of common stock of AM Intermediate Holdco, Inc.,

On October 6, 2015, and in accordance with Section 765-1.14 of Title 10 NYCRR, OEP AM, Inc. submitted an affidavit to New York State Department of Health stating it will operate in the ordinary course of business and take all actions necessary to maintain and not impair licensure, and refrain from exercising control until approval has been granted by the Public Health and Health Planning Council.

The sole member of OEP AM, Inc. is OEP AM Holdings, LLC. The sole member of OEP AM Holdings, LLC is OEP VI, L.P. & Affiliates.

The Board of Directors of OEP AM, Inc is comprised of the following individuals:

Gregory Belinfanti – President Senior Managing Director, One Equity Partners	Bradley Coppens – Vice-President Senior Managing Director, One Equity Partners
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The managers of OEP AM Holdings, LLC are the following:

OEP AM Manager, LLC	One Equity Partners VI, I.P.
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The Board of Directors of OEP VI, L.P. & Affiliates Inc is comprised of the following individuals:

James Bradley Cherry – Director Senior Managing Director, One Equity Partners	Christoph Giulini – Director Senior Managing Director, One Equity Partners Europe GmbH
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Gregory Belinfanti – Director Disclosed Above	Johann-Melchior Von Peter - Director Senior Managing Director, One Equity Partners Europe GmbH
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James Koven – Director  
Senior Managing Director,  
One Equity Partners Capital Advisors

Richard Cashin – Director  
President, One Equity Partners Capital  
Advisors

Paul Schorr VI- Director  
Senior Managing Director,  
One Equity Partners

David Han – Director  
Senior Managing Director,  
One Equity Partners

The Board of Directors of All Metro Aids, Inc. d/b/a All Metro Health Care, All Metro Home Care Services, Inc., All Metro Health Care Services, Inc., AM Holdco, Inc. and AM Intermediate Holdco, Inc are exempt from a character and competence review due to the fact that they were previously approved by the Public Health and Health Planning Council for this Licensed Home Care Services Agency.

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

The applicant proposes to continue to serve the residents of the following counties from an office located at 80 Broad Street, 14<sup>th</sup> Floor, New York, New York 10004:

New York  
Queens

Bronx  
Richmond

Kings

The applicant proposes to provide the following health care services:

Nursing  
Physical Therapy  
Speech-Language Pathology  
Housekeeper

Home Health Aide  
Nutrition  
Homemaker

Personal Care  
Occupational Therapy  
Medical Social Services

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

All Metro Home Care Services of New York, Inc. (LHCSA - Lynbrook, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Mount Vernon, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Port Jefferson Station, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Albany, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Babylon, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – New York, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Buffalo, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Rochester, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Liverpool, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Schenectady, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Corning, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Binghamton, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Liverpool, NY)  
All Metro Aids, Inc. (LHCSA – New York, NY)  
All Metro Home Care Services of Florida, Inc. (CHHA – West Palm Beach, FL)  
All Metro Home Care Services of Florida, Inc. (CHHA – Lauderdale Lakes, FL)  
CareGivers America, LLC (LHCSA – Allentown, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Berwick, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Clarks Summit, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Dallas, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Tannersville, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Pottsville, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Honesdale, PA, 2015-present)

CareGivers America, LLC (LHCSA – Landsdale, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Lehighton, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Milford, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Montrose, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Sayre, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Selinsgrove, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Williamsport, PA, 2015-present)  
CareGivers America Home Health Services, LLC (LHCSA – Clarks Summit, PA 2015-present)  
CareGivers America Home Health Services, LLC (LHCSA – Allentown, PA 2015-present)  
CareGivers America Medical Supply, LLC (DME – Clarks Summit, PA 2015-present)

All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care was fined twelve thousand dollars (\$12,000.00) pursuant to a stipulation and order dated May 24, 2011 for inspection findings of March 13, 2008, May 7, 2009 and June 18, 2010 for violations of 10 NYCRR Sections 766.1(a)(1) – Patient Rights; 766.4(d) – Medical Orders; 766.5(b)(1) – Clinical Supervision; 766.5(b)(3) – Clinical Supervision; 766.9(a) –Governing Authority; and 766.11(f)(ii) – Personnel.

All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care was fined five thousand five hundred dollars (\$5,500.00) pursuant to a stipulation and order dated February 24, 2014 for inspection findings of July 18, 2013 for violations of 10 NYCRR Sections 766.3(b) and (d) – Plan of Care; 766.4 (d) – Medical Orders; 766.5 (b) – Clinical Supervision; 766.9(a)(c)(j) and (l) – Governing Authority; and 766.11(g) – Personnel.

All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care was fined five thousand five hundred dollars (\$5,500.00) pursuant to a stipulation and order dated February 24, 2014 for inspection findings of July 18, 2013 for violations of 10 NYCRR Sections 766.3(b) and (d) – Plan of Care; 766.4 (d) – Medical Orders; 766.5 (a) and (b) – Clinical Supervision; 766.9(a)(c)(o)(j) and (l) – Governing Authority; and 766.11(g) – Personnel.

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

The information received from the State of Pennsylvania indicated that all of the home care agencies owned by the applicant are in current compliance and that no enforcement actions have been taken against any of the agencies.

The State of Florida's Agency for Health Care Administration did not respond to the applicant's request for a Schedule 2D. Therefore, the applicant submitted a notarized affidavit attesting that the following Florida agencies are currently licensed and in compliance with all applicable federal and Florida regulations:

All Metro Home Care Services of Florida, Inc. (CHHA – West Palm Beach, FL)  
All Metro Home Care Services of Florida, Inc. (CHHA – Lauderdale Lakes, FL)

Gregory Belinfanti disclosed that on March 20, 2014, MModal and subsidiaries filed a voluntary bankruptcy under Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court in the Southern District of New York. Mr. Belinfanti was a partner in the investment partnership and also served on MModal's Board of Directors. On July 31<sup>st</sup>, 2014, MModal completed its financial restructuring and emerged from bankruptcy.

Gregory Belinfanti also disclosed that "following a voluntary self-disclosure to the Secretaries and Exchange Commission, and based upon what the Department of Justice described as extraordinary cooperation, on December 30, 2013, ArthroCare entered into a Deferred Prosecution Agreement with the United States Securities and Exchange Commission and the Department of Justice related to allegations of securities and related fraud committed by then

terminated management employees. The DPA was for a term of 24 months and the required ArthroCare to maintain a compliance program. ArthroCare met of the terms of the DPA resulting in early termination of the DPA on May 22, 2015.”

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: September 2, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: All Metro Home Care Services of New York, Inc.  
d/b/a All Metro Health Care  
Address: Lynbrook  
County: Nassau  
Structure: For-Profit Corporation  
Application Number: 161147

Description of Project:

All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care, 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.

All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care was previously approved as a home care services agency by the Public Health Council at its November 19, 2010 meeting and subsequently assigned license numbers 1650L001 through 1650L013.

The currently approved organizational structure of All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care is All Metro Health Care Services, Inc. is the sole shareholder of All Metro Home Care Services of New York, Inc. The sole shareholder of All Metro Health Care Services, Inc. is AM Holdco, Inc. The sole shareholder of AM Holdco, Inc. is AM Intermediate Holdco, Inc. The sole shareholder of AM Intermediate Holdco, Inc. is AM Holdco, LLC.

In this proposal, OEP AM, Inc., a Delaware corporation, proposes to purchase all 1000 shares of common stock of AM Intermediate Holdco, Inc., through a Stock Purchase Agreement.

On October 6, 2015, and in accordance with Section 765-1.14 of 10 NYCRR, OEP AM, Inc. submitted an affidavit to New York State Department of Health stating it will operate in the ordinary course of business and take all actions necessary to maintain and not impair licensure, and refrain from exercising control until approval has been granted by the Public Health and Health Planning Council.

The sole shareholder of OEP AM, Inc. is OEP AM Holdings, LLC. The sole member of OEP AM Holdings, LLC is OEP VI, L.P. & Affiliates.

The Board of Directors of OEP AM, Inc is comprised of the following individuals:

Gregory Belinfanti – President Senior Managing Director, One Equity Partners	Bradley Coppens – Vice-President Senior Managing Director, One Equity Partners
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The managers of OEP AM Holdings, LLC are the following:

OEP AM Manager, LLC	One Equity Partners VI, I.P.
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The Board of Directors of OEP VI, L.P. & Affiliates Inc is comprised of the following individuals:

James Bradley Cherry – Director Senior Managing Director, One Equity Partners	Christoph Giulini – Director Senior Managing Director, One Equity Partners Europe GmbH
Gregory Belinfanti – Director Disclosed Above	Johann-Melchior Von Peter - Director Senior Managing Director, One Equity Partners Europe GmbH

James Koven – Director  
Senior Managing Director,  
One Equity Partners Capital Advisors

Richard Cashin – Director  
President, One Equity Partners Capital  
Advisors

Paul Schorr VI- Director  
Senior Managing Director,  
One Equity Partners

David Han – Director  
Senior Managing Director,  
One Equity Partners

The Board of Directors of All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care, All Metro Home Care Services, Inc., All Metro Health Care Services, Inc., AM Holdco, Inc. and AM Intermediate Holdco, Inc are exempt from a character and competence review due to the fact that they were previously approved by the Public Health and Health Planning Council for this Licensed Home Care Services Agency.

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

The applicant proposes to continue to serve the residents of the following counties from the indicated addresses:

Address	Counties Served
170 Earle Avenue, 1st Floor Lynbrook, NY 11563	Nassau, Suffolk, Queens
4 West Prospect Avenue Mount Vernon, NY 10550	Dutchess, Orange, Putnam, Rockland, Westchester, Bronx
1010 Route 112 Port Jefferson Station, NY 11776	Nassau, Suffolk
1450 Western Avenue, Suite 104 Albany, NY 12203	Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington
181 West Main Street Babylon, NY 11702	Nassau, Suffolk, Queens
80 Broad Street, Floor 14 New York, NY 10004	Bronx, Kings, New York, Queens, Richmond
170 Franklin, Suite 205 Buffalo, NY 14202	Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming
1350 University Avenue, Suite C Rochester, NY 14607	Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates
526 Old Liverpool Road Liverpool, NY 13088	Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, Tompkins
650 Franklin Street, Suite 102 Schenectady, NY 12035	Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren
4 East William Street, Suite 101 Corning, NY 14830	Allegany, Chemung, Livingston, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates

49 Court Street, Suite 255 Binghamton, NY 13901	Broome, Chemung, Chenango, Cortland, Tioga, Tompkins
4709 Crossroads Park Drive, Suite 108 Liverpool, NY 13088	Cayuga, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Nutrition	Occupational Therapy
Speech-Language Pathology	Homemaker	Medical Social Services
Housekeeper		

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

All Metro Home Care Services of New York, Inc. (LHCSA - Lynbrook, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Mount Vernon, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Port Jefferson Station, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Albany, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Babylon, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – New York, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Buffalo, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Rochester, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Liverpool, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Schenectady, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Corning, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Binghamton, NY)  
All Metro Home Care Services of New York, Inc. (LHCSA – Liverpool, NY)  
All Metro Aids, Inc. (LHCSA – New York, NY)  
All Metro Home Care Services of Florida, Inc. (CHHA – West Palm Beach, FL)  
All Metro Home Care Services of Florida, Inc. (CHHA – Lauderdale Lakes, FL)  
CareGivers America, LLC (LHCSA – Allentown, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Berwick, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Clarks Summit, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Dallas, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Tannersville, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Pottsville, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Honesdale, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Landsdale, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Lehighton, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Milford, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Montrose, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Sayre, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Selinsgrove, PA, 2015-present)  
CareGivers America, LLC (LHCSA – Williamsport, PA, 2015-present)  
CareGivers America Home Health Services, LLC (LHCSA – Clarks Summit, PA 2015-present)  
CareGivers America Home Health Services, LLC (LHCSA – Allentown, PA 2015-present)  
CareGivers America Medical Supply, LLC (DME – Clarks Summit. PA 2015-present)

All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care was fined twelve thousand dollars (\$12,000.00) pursuant to a stipulation and order dated May 24, 2011 for inspection findings of March 13, 2008, May 7, 2009 and June 18, 2010 for violations of 10 NYCRR Sections 766.1(a)(1) – Patient Rights; 766.4(d) – Medical Orders; 766.5(b)(1) – Clinical Supervision; 766.5(b)(3) – Clinical Supervision; 766.9(a) –Governing Authority; and 766.11(f)(ii) – Personnel.

All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care was fined five thousand five hundred dollars (\$5,500.00) pursuant to a stipulation and order dated February 24, 2014 for inspection findings of July 18, 2013 for violations of 10 NYCRR Sections 766.3(b) and (d) – Plan of Care; 766.4 (d) – Medical Orders; 766.5 (b) – Clinical Supervision; 766.9(a)(c)(j) and (l) – Governing Authority; and 766.11(g) – Personnel.

All Metro Home Care Services of New York, Inc. d/b/a All Metro Health Care was fined five thousand five hundred dollars (\$5,500.00) pursuant to a stipulation and order dated February 24, 2014 for inspection findings of July 18, 2013 for violations of 10 NYCRR Sections 766.3(b) and (d) – Plan of Care; 766.4 (d) – Medical Orders; 766.5 (a) and (b) – Clinical Supervision; 766.9(a)(c)(o)(j) and (l) – Governing Authority; and 766.11(g) – Personnel.

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

The information received from the State of Pennsylvania indicated that all of the home care agencies owned by the applicant are in current compliance and that no enforcement actions have been taken against any of the agencies.

The State of Florida's Agency for Health Care Administration did not respond to the applicant's request for a Schedule 2D. Therefore, the applicant submitted a notarized affidavit attesting that the following Florida agencies are currently licensed and in compliance with all applicable federal and Florida regulations:

All Metro Home Care Services of Florida, Inc. (CHHA – West Palm Beach, FL)  
All Metro Home Care Services of Florida, Inc. (CHHA – Lauderdale Lakes, FL)

Gregory Belinfanti disclosed that on March 20, 2014, MModal and subsidiaries filed a voluntary bankruptcy under Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court in the Southern District of New York. Mr. Belinfanti was a partner in the investment partnership and also served on MModal's Board of Directors. On July 31<sup>st</sup>, 2014, MModal completed its financial restructuring and emerged from bankruptcy.

Gregory Belinfanti also disclosed that "following a voluntary self-disclosure to the Secretaries and Exchange Commission, and based upon what the Department of Justice described as extraordinary cooperation, on December 30, 2013, ArthroCare entered into a Deferred Prosecution Agreement with the United States Securities and Exchange Commission and the Department of Justice related to allegations of securities and related fraud committed by then terminated management employees. The DPA was for a term of 24 months and the required ArthroCare to maintain a compliance program. ArthroCare met of the terms of the DPA resulting in early termination of the DPA on May 22, 2015."

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: September 2, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Paramount Homecare Agency Inc.  
Address: Brooklyn  
County: Kings  
Structure: For-Profit Corporation  
Application Number: 161392

Description of Project:

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

Paramount Homecare Agency Inc. was previously approved as a home care services agency by the Public Health and Health Planning Council at its December 8, 2011 meeting and subsequently licensed as 1952L001.

LHCSA application number 2436L was contingently approved by the Public Health and Health Planning Council at its October 8, 2015 meeting. That application approved a 100% stock transfer of the shares Paramount Homecare Agency Inc. to Roman Offengeym, LPN. This stock transfer became effective on April 4, 2016 with no change to the license number.

The purpose of this application is to transfer 80% of the shares of stock from Roman Offengeym, LPN to Mariya Offengeym, RN.

Paramount Homecare Agency Inc. has authorized 200 shares of stock, which will be owned as follows: Mariya Offengeym - 160 shares and Roman Offengeym - 40 shares.

The Board of Directors of Paramount Homecare Agency Inc. is comprised of the following individuals:

Mariya Offengeym, RN, President/Chairman  
RN/Director of Patient Services, Paramount Homecare Agency Inc.

Roman Offengeym, LPN, Secretary/Treasurer, Director of Operations  
Previously Approved By PHHPC

Roman Offengeym, LPN is exempt from character and competence review due to the fact that he was previously approved by the Public Health and Health Planning Council for this operator.

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

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

The applicant proposes to continue to serve the residents of the following counties from an office located at 161 Kings Highway, Suite 2, Brooklyn, New York 11204:

Kings	Queens	New York
Bronx	Richmond	Nassau

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

Nursing	Home Health Aide	Personal Care Aide
Physical Therapy	Occupational Therapy	Speech-Language Pathology
Medical Social Services	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: September 29, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Robynwood Home Care LLC d/b/a Robynwood Home Care  
Address: Oneonta  
County: Otsego  
Structure: Limited Liability Company  
Application Number: 161424

Description of Project:

Robynwood Home Care LLC d/b/a Robynwood Home Care, 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.

Robynwood LLC d/b/a Robynwood Home Care was previously approved as a home care services agency by the Public Health and Health Planning Council at its April 5, 2012 meeting and subsequently licensed as 2034L001 effective July 25, 2012.

This LHCSA will be associated with the Assisted Living Program to be operated by Robynwood ALP LLC. The LHCSA and the ALP will have identical ownership.

The membership of Robynwood Home Care LLC d/b/a Robynwood Home Care comprises the following individuals:

Samuel Tennenbaum, EMT – 50%  
CEO, Sage Healthcare Partners  
COO, Rockhall Management

Affiliations:

Lighthouse Inn North (ALF, Florida, July 2014 – Present)  
Lighthouse Inn South (ALF, Florida, July 2014 – Present)

Avraham Satt – 50%  
President, Sage Healthcare Partners

The Bureau of Emergency Medical Services indicates no issues with the certification of the health care professional associated with this application.

A search of the individuals 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 43 Walnut Street, Oneonta, New York 13820:

Otsego                                      Delaware                                      Schoharie                                      Chenango

The applicant proposes to provide the following health care services:

Nursing                                      Home Health Aide                                      Personal Care  
Physical Therapy                                      Occupational Therapy

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

Lighthouse Inn North (ALF, Florida, July 2014 – Present)  
Lighthouse Inn South (ALF, Florida, July 2014 – Present)

The information provided by the State of Florida indicated no enforcement actions were taken against Lighthouse Inn North and Lighthouse Inn South for surveys performed between July 2014 and present.

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: November 3, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Extended Holding Company, LLC  
d/b/a Extended at Home Care  
Address: New York  
County: New York  
Structure: Limited Liability Company  
Application Number: 162038

Description of Project:

Extended Holding Company, LLC d/b/a Extended At Home Care, 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.

AHS Criticare, LLC was previously approved as a home care services agency by the Public Health and Health Planning Council at its August 6, 2015 meeting and subsequently assigned license number 2313L001 effective January 25, 2016. The sole member of AHS Criticare, LLC is Simon Aronshtein.

The sole member of Extended Holding Company, LLC d/b/a Extended At Home Care is Extended Nursing Personnel CHHA, LLC d/b/a Extended Home Care (CHHA).

The membership of Extended Nursing Personnel CHHA, LLC d/b/a Extended Home Care, and Extended Holding Company, LLC d/b/a Extended At Home Care are identical and comprise the following individuals:

Lenore Mahoney - 46%  
Managing Director, Extended Nursing  
Personnel CHHA, LLC d/b/a Extended Home  
Care  
Managing Director, Extended MLTC, LLC

Claudia Taglich - 46%  
Managing Director, Extended Nursing  
Personnel CHHA, LLC d/b/a Extended Home  
Care  
Managing Director, Extended MLTC, LLC

Affiliations  
Extended Nursing Personnel CHHA, LLC  
d/b/a Extended Home Care (CHHA)  
Extended MLTC, LLC (2011-present)

Affiliations  
Extended Nursing Personnel CHHA, LLC  
d/b/a Extended Home Care (CHHA)  
Extended MLTC, LLC (2011-present)

Vincent Achillarre - 8%  
Managing Director, Extended Nursing  
Personnel CHHA, LLC d/b/a Extended  
Home Care  
Managing Director, Extended MLTC, LLC

Affiliations  
Extended Nursing Personnel CHHA, LLC  
d/b/a Extended Home Care (CHHA)  
Extended MLTC, LLC (2011-present)

A search of the individuals 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 360 West 31<sup>st</sup> Street, Suite 304, New Yoke, New York 10001:

New York	Bronx	Kings
Queens	Richmond	Nassau

The applicant proposes to provide the following health care services:

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

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

Extended Nursing Personnel CHHA, LLC d/b/a Extended Home Care (CHHA)  
Extended MLTC, LLC (2011-present)

On December 17, 2009, Extended Nursing Personnel CHHA, LLC d/b/a Extended Home Care entered into agreements of settlement with the Office of New York Attorney General and the United States Attorney for the Eastern District of New York settling alleged liabilities incurred in connection with its submission of claims to Medicare and Medicaid for services by home health aides who lacked proper certification. Extended Nursing Personnel CHHA, LLC d/b/a Extended Home paid a \$9.5 million dollar settlement and was released from any civil or administrative liability for the matters under investigation. As part of settlement Extended Nursing Personnel CHHA, LLC d/b/a Extended Home also agreed to enter into a five year Corporate Integrity Agreement with the New York State Office of the Medical Inspector General. That agreement expired its terms on December 14, 2014.

The information provided by the Division of Home and Community Based Services has indicated that the home care services agency 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 Office of Managed Care has indicated that the MLTC plan has provided sufficient supervision to prevent harm to the health, safety and welfare of patients 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.

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: October 20, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: Best Help Home Care Corp.  
Address: Brooklyn  
County: Kings  
Structure: For-Profit Corporation  
Application Number: 162061

Description of Project:

Best Help Home Care Corp., a business corporation, requests approval for a change in ownership and legal entity of a licensed home care services agency under Article 36 of the Public Health Law.

Best Help Home Care Corp. was previously approved as a home care services agency by the Public Health and Health Planning Council at its June 7, 2012 meeting and subsequently licensed as 1623L001 effective April 30, 2015.

At the time of licensure Mushe Kurayev was the sole shareholder, owning all 200 shares of stock. On March 9, 2016 19 shares (9.5%) of stock were transferred to Yevgeny Gerovich.

The purpose of this application is to transfer the remaining 181 shares of stock from Mushe Kurayev to Yevgeny Gerovich.

Best Help Home Care Corp. has authorized 200 shares of stock, which will be solely owned by Yevgeny Gerovich.

The Board of Directors of Best Help Home Care Corp. will be comprised of the following individual:

Yevgeny Gerovich, President/Director/Secretary/Treasurer  
Manager, Best Help Home Care Corp.  
President/Owner, Platinum Express Inc.

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 1733 Sheepshead Bay Road, Suite 12, Brooklyn, New York 11235:

Kings	Bronx	New York
Queens	Richmond	Westchester

The applicant proposes to provide the following health care services:

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

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

Best Help Home Care Corp. (March 2016 – Present)

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.

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: September 30, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: DOJ LHCSA Operations Associates LLC  
d/b/a Claremont LHCSA  
Address: Bronx  
County: Bronx  
Structure: Limited Liability Company  
Application Number: 162067

Description of Project:

DOJ LHCSA Operations Associates LLC d/b/a Claremont 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.

DOJ Home Care Agency, Inc. was previously approved as a home care services agency by the Public Health Council at its November 19, 2010 meeting and was subsequently licensed as 1748L001 effective August 15, 2014.

The purpose of this application is to seek approval for DOJ LHCSA Operations Associates LLC d/b/a Claremont LHCSA to acquire DOJ Home Care Agency, Inc. through an asset purchase agreement.

This LHCSA will be associated with the assisted living program to be operated by DOJ ALP Operations Associates LLC and will serve the assisted living program residents.

The members of DOJ LHCSA Operations Associates LLC d/b/a Claremont LHCSA comprise the following individuals:

Kenneth Rozenberg, EMT, NHA (NY and NJ) Managing Member – 98%  
Chief Executive Officer, Centers Health Care  
Chief Executive Officer, Bronx Center for Rehabilitation & Health Care

Affiliations:

- Amazing Home Care (LHCSA) 05/2006 to present
- Banister Center for Rehabilitation (Rhode Island) 08/2016 to present
- Boro Park Center for Rehabilitation and Healthcare 05/2011 to present
- Bronx Center for Rehabilitation and Health Care 10/1997 to present
- Bronx Center for Renal Dialysis (D&TC) 01/2011 to present
- Brooklyn Center for Rehabilitation and Residential Health Care 05/2007 to present
- Buffalo Center for Rehabilitation and Nursing (FKA Delaware Nursing & Rehab Center (Receivership) 06/2014 to 12/2015
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care (fka Wartburg Lutheran Home for the Aging) (receiver) 06/2008 to 05/2011
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Bushwick Center for Renal Dialysis (D&TC) 06/2014 to present
- Center Plan for Health Living (MLTC) 01/2013 to present
- Centers Home Health Revival (fka Alpine Home Health Care) (CHHA) 07/2008 to present
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Daughters of Jacob Nursing Home Company (receiver) 08/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2004 to 03/2016
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 11/2010 to present

- Hope Center for HIV and Nursing Care 04/2015 to present
- Indian River Rehabilitation and Nursing Center 12/2014 to present
- Northwoods Rehabilitation and Nursing Center at Moravia 11/2014 to 03/2016
- Park View Center for Rehabilitation and Healthcare (Rhode Island) 05/2016 to present
- Queens Center for Rehabilitation and Residential Health Care 10/2004 to 03/2016
- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present
- Senior Care Emergency Ambulance Services (EMS) 06/2005 to present
- Steuben Center for Rehabilitation and Healthcare 07/2014 to present
- The Grand Rehabilitation and Nursing at Chittenango (FKA Stonehedge Health & Rehabilitation Center – Chittenango) (REC) 07/2008 to 04/2011
- The Grand Rehabilitation and Nursing at Chittenango 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome (FKA Stonehedge Health & Rehabilitation Center – Rome) (receiver) 07/2008 to 04/2011
- The Grand Rehabilitation and Nursing at Rome 05/2011 to present
- University Nursing Home 08/2001 to present
- Washington Center for Rehabilitation and Healthcare 02/2014 to present
- Waterfront Center for Rehabilitation and Healthcare (receiver) 08/2011 to 12/2012
- Waterfront Center for Rehabilitation and Healthcare 12/2012 to present
- Williamsbridge Manor Nursing Home 11/1996 to present
- Wartburg Nursing Home (receiver) 06/2008 to 05/2011
- Washington Center Adult Home (AH) 02/2014 to present

Jeffrey M. Sicklick, Member, NHA (NY and NJ) – 2%  
 Administrator, Bronx Center for Rehabilitation

Affiliations:

- Boro Park Center for Rehabilitation and Healthcare 05/2011 to 04/2016
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2004 to 11/2015
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 05/2013 to present
- Queens Center for Rehabilitation and Residential Health Care 02/2008 to 10/2015
- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present
- Steuben Center for Rehabilitation and Healthcare 07/2014 to present
- The Grand Rehabilitation and Nursing at Chittenango 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome 05/2011 to present
- Washington Center for Rehabilitation and Healthcare 02/2014 to present
- Waterfront Center for Rehabilitation and Healthcare 01/2013 to present
- Washington Center Adult Home (AH) 02/2014 to present

A search of the individuals (and entities where appropriate) named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The Bureau of Professional Credentialing has indicated that Kenneth Rozenberg NHA license #04036 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The State of New Jersey has indicated that Kenneth Rozenberg NHA license #2841 holds an active NHA license which expires June 30, 2017.

The Bureau of Professional Credentialing has indicated that Jeffrey M. Sicklick NHA license #03579 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The Bureau of Emergency Medical Services has indicated that Kenneth Rozenberg holds a Paramedic Certification #082942 and is in good standing. Disciplinary action against this individual or his certification has never been taken.

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

- Amazing Home Care
- Banister Center for Rehabilitation (Rhode Island) 08/2016 to present
- Boro Park Center for Rehabilitation and Healthcare 05/2011 to present
- Bronx Center for Rehabilitation and Health Care
- Bronx Center for Renal Dialysis 01/2011 to present
- Brooklyn Center for Rehabilitation and Residential Health Care 08/2009 to present
- Buffalo Center for Rehabilitation and Nursing (fka Delaware Nursing & Rehab Center) 06/2014 to 12/2015
- Buffalo Center for Rehabilitation and Nursing 12/2015 to present
- Bushwick Center for Rehabilitation and Health Care (fka Wartburg Lutheran Home for the Aging) 08/2009 to 05/2011
- Bushwick Center for Rehabilitation and Health Care 05/2011 to present
- Bushwick Center for Renal Dialysis 06/2014 to present
- Center Plan for Health Living 01/2013 to present
- Centers Home Health Revival (fka Alpine Home Health Care)
- Corning Center for Rehabilitation and Healthcare 07/2013 to present
- Daughters of Jacob Nursing Home Company 08/2013 to present
- Dutchess Center for Rehabilitation and Healthcare 08/2009 to 03/2016
- Essex Center for Rehabilitation and Healthcare 03/2014 to present
- Fulton Center for Rehabilitation and Healthcare 04/2012 to present
- Holliswood Center for Rehabilitation and Healthcare 11/2010 to present
- Hope Center for HIV and Nursing Care 04/2015 to present
- Indian River Rehabilitation and Nursing Center 12/2014 to present
- Northwoods Rehabilitation and Nursing Center at Moravia 11/2014 to 03/2016
- Park View Center for Rehabilitation and Healthcare 05/2016 to present
- Queens Center for Rehabilitation and Residential Health Care 08/2009 to 03/2016
- Richmond Center for Rehabilitation and Specialty Healthcare 04/2012 to present
- Senior Care Emergency Ambulance Services, Inc.
- Steuben Center for Rehabilitation and Healthcare 07/2014 to present
- The Grand Rehabilitation and Nursing at Chittenango (fka Stonehedge Health & Rehab Center – Chittenango) 08/2009 to 04/2011
- The Grand Rehabilitation and Nursing at Chittenango 05/2011 to present
- The Grand Rehabilitation and Nursing at Rome (fka Stonehedge Health & Rehabilitation Center – Rome) 08/2009 to 04/2011
- The Grand Rehabilitation and Nursing at Rome 05/2011 to present
- University Nursing Home 08/2009 to present
- Washington Center for Rehabilitation and Healthcare 02/2014 to present
- Waterfront Center for Rehabilitation and Healthcare 08/2011 to 12/2012
- Waterfront Center for Rehabilitation and Healthcare 12/2012 to present
- Williamsbridge Manor Nursing Home
- Wartburg Nursing Home 08/2009 to 05/2011
- Washington Center Adult Home 02/2014 to present

The information provided by the Division of Home and Community Based Services has indicated that the home care agencies reviewed, for the periods identified above reveals the following:

**Alpine Home Health Care** was fine one thousand dollars (\$1,000) pursuant to a Stipulation dated February 3, 2014 for not responding to Emergency Preparedness survey.

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 Bureau of Quality and Surveillance has indicated that the residential health care facilities reviewed, for the periods identified above, reveals the following:

**Bronx Center for Rehabilitation and Health Care** was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated August 25, 2011 for surveillance findings on April 16, 2010. Deficiencies were found under 10 NYCRR 415.12 (h)(2) Quality of Care: Accidents and Supervision and 415.26 Administration.

**Essex Center for Rehabilitation and Health Care** was fined six thousand dollars (\$6,000) pursuant to a Stipulation and Order dated March 9 2016 for surveillance findings on August 19, 2015. Deficiencies were found under 10 NYCRR 415.12 Quality of Care: Highest Practical Potential; 415.26 Administration; and 415.27(a-c) Administration: Quality Assessment and Assurance.

**Fulton Center for Rehabilitation and Healthcare** was fined fifty-two thousand dollars (\$52,000) pursuant to a Stipulation and Order dated January 5, 2016 for surveillance findings on June 11, 2012, May 5, 2013, and November 21, 2013. Deficiencies were found under 10 NYCRR 451.3(e)(2)(ii)(b) Notification of Changes; 415.12 Quality of Care: Highest Practical Potential; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.12(m)(2) Quality of Care: Medication Errors; 415.12(c)(2) Quality of Care: Pressure Sores; 415.12(i)(1) Quality of Care: Nutrition; 415.26 Administration; 415.27(a-c) Quality Assurance; and 415.4(b)(1)(2)(3) Investigate/Report Allegation.

**Northwoods Rehabilitation and Nursing Center at Moravia** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated January 13, 2016 for surveillance findings on February 6, 2015. Deficiencies were found under 10 NYCRR 415.26 Administration.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated January 25, 2016 for surveillance findings on October 24, 2013. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accident Free Environment.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined ten thousand dollars (\$10,000) pursuant to a Stipulation and Order dated March 9, 2016 for surveillance findings on March 21, 2014. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

**Richmond Center for Rehabilitation and Specialty Healthcare** was fined eighteen thousand dollars (\$18,000) pursuant to a Stipulation and Order issued for surveillance findings on April 24, 2012. Deficiencies were found under 10 NYCRR 415.4(b) Free from Abuse/Involuntary Seclusion; 415.4(b)(1)(ii) Investigate Report Allegations; 414.4(b) Develop/Implement Abuse/Neglect Policies; 415.11(c)(2)(i-iii) Care Planning; 415.12(f)(1) Mental/Psychological Difficulties; 415.12(h)(1)(2) Quality of Care: Accidents/Supervision; 415.26 Administration; 415.15(a) Medical Director; and 415.27 (a-c) Quality Assurance.

**Stonehedge Health & Rehabilitation Center - Chittenango** (nka: The Grand Rehabilitation and Nursing at Chittenango) was fined four thousand dollars (\$4,000) pursuant to a Stipulation and

Order dated November 15, 2010 for surveillance findings on October 22, 2009. Deficiencies were found under 10 NYCRR 415.12(h)(1, 2) Quality of Care: Accidents and Supervision; and 415.26(b)(3)(4) Governing Body.

**Chittenango Center for Rehabilitation and Health Care** (nka: The Grand Rehabilitation and Nursing at Chittenango) was fined twenty thousand dollars (\$20,000) pursuant to a Stipulation and Order dated February 17, 2012 for surveillance findings on January 20, 2011. Deficiencies were found under 10 NYCRR 415.12(c)(1)(2) Quality of Care: Pressure Sores; and 415.12(d)(1) Quality of Care: Catheters.

**Washington Center for Rehabilitation and Healthcare** was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated April 6, 2016 for surveillance findings on September 11, 2015. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care: Accident Free Environment; and 415.27(a-c) Administration: Quality Assessment and Assurance.

**Waterfront Center for Rehabilitation and Healthcare** was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated April 24, 2013 for surveillance findings on September 27, 2011. Deficiencies were found under 10 NYCRR 415.12(h)(1)(2) Quality of Care: Accidents and Supervision.

**Waterfront Center for Rehabilitation and Healthcare** was fined was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated April 6, 2016 for surveillance findings on May 23, 2012. Deficiencies were found under 10 NYCRR 415.12(c)(2) Quality of Care: Pressure Sores.

**Waterfront Center for Rehabilitation and Healthcare** was fined twenty-four thousand dollars (\$24,000) pursuant to a Stipulation dated April 19, 2016 for surveillance findings on November 6, 2015. Deficiencies were found under 10 NYCRR 415.12(m)(2) Quality of Care: No Significant Med Errors; 415.12 Quality of Care: Highest Practicable Potential; 415.12(l)(1) Quality of Care: Unnecessary Drugs; 415.18(a) Pharmacy Services: Facility Must Provide Routine and Emergency Drugs in a Timely Manner; 415.18(c)(2) Pharmacy Services: the Drug Regimen of Each Resident Must be Reviewed at Least Once a Month By Licensed Pharmacist; 415.4(b)(2)(3) Investigate/Report Allegations Individuals; 415.26 Administration; and 415.27(c)(2)(3)(v) Administration: Quality Assessment and Assurance.

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 Bureau of Emergency Medical Services and Trauma Systems 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 Division of Hospitals and Diagnostic & Treatment Centers 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 Division of Adult Care Facilities and Assisted Living Surveillance 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 Division of Hospitals and Diagnostic & Treatment Centers 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 State of Rhode Island has indicated that Banister Center for Rehabilitation and Park View Center for Rehabilitation and Healthcare have 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 Bronx County from the office located at 1160 Teller Avenue, Bronx, New York 10456

The applicant proposes to provide the following health care services:

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

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: October 25, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: A.V. Pro Services, Inc. d/b/a Assisted Home Care Services  
Address: St. Albans  
County: Queens  
Structure: For-Profit Corporation  
Application Number: 162119

Description of Project:

A.V. Pro Services, Inc. d/b/a Assisted Home Care Services, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

A.V. Pro Services, Inc. d/b/a Assisted Home Care Services was previously approved by the Public Health Council at its May 2, 2008 meeting and subsequently assigned license number 1533L001 effective April 1, 2010. At that time, the ownership of A.V. Pro Services, Inc. d/b/a Assisted Home Care Services, Inc. consisted of Abdon Victor (51 shares) and Rachele Victor (49 shares) with 100 shares unissued.

The applicant has authorized 200 shares of stock which will be owned as follows: Yury Grobshteyn - 66.5 shares, Jeff Paperman - 66.5 shares, Abdon Victor - 33.5 shares and Rachele Victor - 33.5 shares.

The proposed Board of Directors of A.V. Pro Services, Inc. d/b/a Assisted Home Care Services comprises the following individuals:

Yury Grobshteyn, Chairman/Director of Operations  
President, Uni-Care Services, Inc.

Abdon Victor, Vice-Chairman

Rachele Victor, Treasurer

Jeff Paperman, Secretary  
Office Manager, Real Care, Inc.

Abdon Victor and Rachele Victor are exempt from character and competence review due to the fact that they were previously approved by the Public Health Council for this operator.

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

The applicant proposes to continue to serve the residents of the following counties from an office located at 200-15 Linden Boulevard, St. Albans, New York 11412:

Kings  
Bronx

Queens  
Nassau

Richmond  
New York

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

Nursing  
Physical Therapy  
Speech-Language Pathology  
Nutrition

Home Health Aide  
Occupational Therapy  
Audiology  
Homemaker

Personal Care Aide  
Respiratory Therapy  
Medical Social Services  
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: October 24, 2016

Licensed Home Care Services Agency  
Character and Competence Staff Review

Name of Agency: AllHealth Home Care LLC  
Address: Brooklyn  
County: Kings  
Structure: Limited Liability Company  
Application Number: 162137

Description of Project:

AllHealth 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.

AllHealth Home Care LLC was previously approved by the Public Health Council at its March 12, 2010 meeting and subsequently licensed 1847L001 effective January 1, 2011.

The purpose of this application is to seek approval for Wasa Health LLC to acquire 74.25% membership of the LHCSA through an Asset Purchase Agreement.

The proposed members of AllHealth Home Care LLC comprise the following entity and individuals:

Wasa Health, LLC – 74.25% Lyudmila Motovich – 24.75%

Elana Sims , RN – 1%

The following individual is the sole member of Wasa Health LLC:

Esther R. Fass  
Assistant Administrator, Quality Healthcare, Inc.

Lyudmila Motovich and Elana Sims are exempt from character and competence review due to the fact that they were previously approved by the Public Health Council for this operator.

A search of Esther Fass revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

A review of the operations of the AllHealth Home Care LLC (1/1/2011-present) was performed as part of this review. 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 applicant proposes to continue to serve the residents of the following counties from an office located at 1122 Coney Island Avenue, Brooklyn, New York 11230:

Bronx	Kings	New York
Queens	Richmond	Westchester

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

Nursing	Home Health Aide	Personal Care	Medical Social Services
Occupational Therapy	Physical Therapy	Audiology	Speech-Language Pathology
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: September 19, 2016



## MEMORANDUM

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

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

**Date:** November 3, 2016

**Subject:** Proposed Certificate of Amendment of Certificate of Incorporation of The South Hampton Hospital Association: Purposes Change

---

The Southampton Hospital Association is the not-for-profit operator of Southampton Hospital; however, via submission of project 152083-C, Southampton Hospital will become a division of Stony Brook University Hospital. This project has received contingent approval. Therefore, The Southampton Hospital Association is removing Article 28 purposes language from its Certificate of Incorporation.

Attached is the proposed Certificate of Amendment of Certificate of Incorporation of The South Hampton Hospital Association, among other documents. This not-for-profit corporation seeks approval to file its Certificate of Amendment. Public Health and Health Planning Council approval for the changes made to said certificate is required by Not-for-Profit Corporation Law § 804(a).

There is no legal objection to the changes and the proposed Certificate of Amendment of Certificate of Incorporation is in legally acceptable form.

Attachments.

**CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF**

**THE SOUTHAMPTON HOSPITAL ASSOCIATION  
Under Section 803 of the Not-For-Profit Corporation Law**

The undersigned, being the President of The Southampton Hospital Association (the "Corporation"), hereby certifies:

1. The name of the Corporation is The Southampton Hospital Association and that is the name under which the Corporation was originally incorporated.
2. The Certificate of Incorporation of the Corporation was filed by the Department of State on February 10, 1944, under the Not-For-Profit Corporation Law of the State of New York.
3. The Corporation is a corporation as defined in paragraph (a) of section 102 of the Not-For-Profit Corporation Law of the State of New York. The Corporation is a charitable corporation under paragraph (c) of section 201 of said Law and will remain a charitable corporation after the filing of this Amendment.
4. The Certificate of Incorporation of the Corporation, as previously amended, is hereby further amended to (i) change the number of the Corporation's directors to not less than 15 nor more than 30 individuals and (ii) change the Corporation's purpose to the following: to promote the health of people in the communities on the East End of Long Island by (a) participating in an affiliation with the State University of New York, acting through Stony Brook University Hospital ("SUNY/SBUH"), pursuant to a series of agreements providing for the operation of Southampton Hospital and related medical facilities by SUNY/SBUH under specified conditions, and (b) actively supporting the development of facilities and resources needed to provide healthcare services to the people in those communities. In no event will the Corporation operate an Article 28 facility as defined in the New York State Public Health Law without having first received approval to do such from the Public Health and Health Planning Council.
5. The foregoing amendments were adopted by action of the Corporation's Board of Directors at a meeting duly held on December 19, 2015.
6. The Secretary of State is designated as the agent of the Corporation upon whom process may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is: 240 Meeting House Lane, Southampton, New York 11968, Attention: President.

Date: November 2, 2016



Robert S. Chaloner

**STATE OF NEW YORK**

**DEPARTMENT OF STATE**

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
July 30, 2008.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

# Cicero Consulting Associates

## VCC, Inc.

701 Westchester Ave. • Suite 210W • White Plains, NY 10604  
Tel: (914) 682-8657 • Fax: (914) 682-8895  
cicero@ciceroassociates.com

White Plains Unit  
Frank T. Cicero, M.D.  
Frank M. Cicero  
Charles F. Murphy, Jr.  
James Psarianos  
Rose Murphy  
Michael D. Ungerer  
Noella Chung  
Brian Baldwin  
Michael F. Cicero  
Karen Dietz  
Evelyn Branford  
Michael C. Malala  
Linda Cammisa, R.N.

Albany Unit  
William B. Carmello  
Joseph F. Pofit  
Albert L. D'Amato  
Mark Van Guysling  
Rosemarie Porco-Nash  
Martha H. Pofit  
Paul M. Tenan  
Daniel Rinaldi, Jr.  
Mary Ann Anglin

Emeritus Consultants  
Nicholas J. Mongiardo  
Joan Greenberg

November 2, 2016

Michael P. Parker, Sr.  
(1941-2011)  
Anthony J. Maddaloni  
(1952-2014)

Eric Mantey, Esq.  
Bureau of House Counsel  
NEW YORK STATE DEPARTMENT OF HEALTH  
Corning Tower, Room 2482  
Empire State Plaza  
Albany, New York 12237

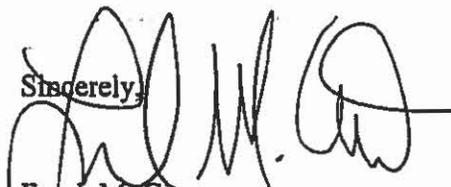
**RE: THE SOUTHAMPTON HOSPITAL ASSOCIATION**  
**Certificate of Amendment of the Certificate of Incorporation**

Dear Mr. Mantey:

On behalf of our client, Southampton Hospital, and in accordance with New York Public Health Law § 2801-a(1), we are seeking approval from the Public Health and Health Planning Council (PHHPC) for an Amendment to the Certificate of Incorporation of The Southampton Hospital Association, which is the not-for-profit operator of Southampton Hospital.

This request is being submitted in light of the contingent approval of Project No. 152083-C, through which Southampton Hospital will become a division of Stony Brook University Hospital. In order to effectuate that transaction as of January 1, 2017, Southampton Hospital's attorneys indicate that it must amend its Certificate of Incorporation on or before December 31, 2016. To this end, please refer to Attachment No. 1 for the proposed, executed Certificate of Amendment of the Certificate of Incorporation of The Southampton Hospital Association that will need to be filed with the Department of State. The Hospital understands that PHHPC approval is needed for the amendment to be approved, given that, among other things, it changes the corporation's purposes (the Article 28 purpose will be eliminated). In addition, please refer to Attachment No. 2 for the original Certificate of Incorporation and all approved Amendments for The Southampton Hospital Association.

Please feel free to contact me if you have any questions. Thank you for your assistance in this matter.

Sincerely,  
  
Frank M. Cicero

cc: Mr. Robert Chaloner, President and Chief Executive Officer, Southampton Hospital

State of New York

State Board of Charities

The Capitol-At Albany

~~As the basis of the Incorporation~~

of

The Southampton Hospital Association

124  
Whereas application has been made to the State Board of Charities for its approval of the incorporation of The Southampton Hospital Association and whereas on due inquiry and investigation it appears to said Board desirable and proper that such association shall be so incorporated.

Now Therefore, In pursuance of and in conformity with the provisions of chapter 40 of the Laws of the State of New York enacted February 17, 1909, the said State Board of Charities hereby certifies that it approves of the incorporation of the said The Southampton Hospital Association, located at Southampton N.Y. the certificate of incorporation of which is hereunto annexed.

In Witness Whereof, the said Board has this 17th day of November 1909 caused these presents to be subscribed by its President and attested by its Secretary and its official seal to be hereunto affixed.

William R. Stewart President

(L.S.) Attest: Robert W. Hill, Secretary

State of New York, Attorney General's Office,

Albany, October 22, 1909

I, Edward R. O'Malley, Attorney-General of the State of New York, do hereby certify that I have examined as to form, the annexed certificate of the Southampton Hospital Association and that the same is in accordance with

Certificate of Incorporation  
of the  
Southampton Hospital Association

We, the undersigned, all being persons of full age Citizens of the United States, and Residents of the State of New York, desiring to form a hospital corporation pursuant to Article 7 of the Membership Corporation Law, being Chapter 35 of the Consolidated Laws, do hereby make, sign, acknowledge and file this certificate for such purposes as follows:-

First: The name of the proposed corporation is The Southampton-Hospital Association.

Second: The particular object for which the corporation is to be formed is to establish and maintain a general hospital at Southampton, Suffolk County, New York, and to receive, collect and hold either by gift, bequest, devise, or otherwise, funds and property, either real or personal and to use and disburse the same in furtherance of the objects of the said corporation.

Third: The principal office of the corporation is to be located in the Town of Southampton, Suffolk County, New York.

Fourth: The names and places of residence of the persons to be its directors until the first annual meeting are as follows:

Name	Residence
George Warrington Curtis	Southampton, New York
William Lewis Donnelly	Southampton, New York
David Joseph Gilmartin	Southampton, New York
Harry Pelham Robbins	Southampton, New York
Alfred Egmont Schermerhorn	Southampton, New York
Willis Dale Van Brunt	Southampton, New York

STATE OF NEW YORK, }  
County of Suffolk, } ss.:

I, R. FORD HUGHES, Clerk of the County of Suffolk and Clerk of the Supreme Court of the State of New York in and for said County (said Court being a Court of Record) DO HEREBY CERTIFY that I have compared the annexed copy of Certificate of Incorporation: The Southampton Hospital Association with original recorded in Suffolk County Clerk's office in Liber 6 of Certificates of Incorporation page 235.

and that it is a just and true copy of such original record and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County and Court this 7th day of Feb. 1944

  
Clerk.

Fifth: The date for holding its annual meeting shall be on the last Friday of June.

In Witness Whereof we have made, signed, acknowledged and filed this certificate this ninth day of October 1909.

GEORGE WARRINGTON CURTIS	L.S.
WILLIAM LEWIS DONNELLY	L.S.
DAVID JOSEPH GILMARTIN	L.S.
HARRY PELHAM ROBINS	L.S.
ALFRED ROBERT SCHERMERHORN	L.S.
WILLIS DALE VAN BRUNT	L.S.

State of New York,  
County of Suffolk, ss.:

On this 9th day of October 1909, before me personally came George Warrington Curtis, William Lewis Donnelly, David Joseph Gilmartin, Harry Pelham Robins, Alfred Robert Schermerhorn and Willis Dale Van Brunt to me personally known and known to me to be of the persons described in and who made, signed and executed the foregoing certificate, and they severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

JAMES H. PIERSON L.S.  
Notary Public,  
Suffolk County, N.Y.

I hereby approve of the annexed Certificate of Incorporation of The Southampton Hospital Association and the filing thereof.

ABEL E. BLACKMAR  
Justice of the Supreme Court  
of the State of New York

Dated December 9, 1909  
Brooklyn, New York.

Recorded 20<sup>th</sup> December 1909 @ 12-M.

Liber 6 of Certificates of Incorporation page 235  
WILLIAM F. FLANAGAN,  
Clerk.

4

STATE OF NEW YORK

No. 98

Int. 98

IN ASSEMBLY

January 10, 1944

Cl. 7 L. 1944

Introduced by Mr. REQUX—read once and referred to the Committee on Judiciary

AN ACT

To validate, legalize and continue the existence of Southampton Hospital Association

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

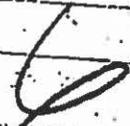
- 1 Section 1. A certificate of incorporation of Southampton Hos-
- 2 pital Association, drawn pursuant to the statute then known as
- 3 article seven of the membership corporations law (chapter thirty-
- 4 five of the consolidated laws), signed and acknowledged by George
- 5 Washington Curtis, William Lewis Donnelly, David Joseph Gil-
- 6 martin, Harry Pelham Robbins, Alfred Egmont Schermerhorn and
- 7 Willis Dale Van Brunt on the ninth day of October, nineteen
- 8 hundred nine, approved on the twenty-second day of October,
- 9 nineteen hundred nine by Attorney-General Edward R. O'Malley,
- 10 approved on the seventeenth day of November, nineteen hundred
- 11 nine, by the state board of charities and approved on the ninth

EXPLANATION — Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.

5

1 day of December, nineteen hundred nine by Abel E. Blackmar,  
2 justice of the supreme court, having been filed and recorded in  
3 the office of the clerk of the county of Suffolk on the twentieth day  
4 of December, ~~nineteen hundred nine~~ as required by the governing  
5 statute which was then section five of the general corporation law  
6 but, through inadvertence, no duplicate original or certified copy  
7 of such certificate having been filed at that time or subsequently in  
8 the office of the secretary of state or of the department of state,  
9 and such association having acted on the twentieth day of December,  
10 nineteen hundred nine, and continuously thereafter, as, and in  
11 the belief that it was and is a hospital corporation duly organized  
12 and existing under and pursuant to the provisions of the mem-  
13 bership corporations law, being chapter thirty-five of the consoli-  
14 dated laws, such association upon the filing in the department of  
15 state of the state of New York, within thirty days after this act  
16 takes effect, of a copy of its aforesaid certificate of incorporation,  
17 ~~only certified by the clerk of the county of Suffolk~~, shall be deemed  
18 to be a valid membership corporation and to have been such on  
19 the twentieth day of December, ~~nineteen hundred nine~~, and at all  
20 times thereafter, with the same force and effect as if its certificate  
21 of incorporation or a duplicate original thereof had been filed timely  
22 in the department of state, and all acts done or performed by  
23 such association or in its name by its directors and officers, not  
24 otherwise unlawful, shall be valid as corporate acts of said asso-  
25 ciation.

26 § 2. This act shall take effect immediately.



Certified Copy

of

Certificate of Incorporation

of the

The Southampton Hospital Association

X 431

2

(copy)

Certificate of Inc.

Arthur W. Schuman

10th, 1944

provisional to Chapter

Seven, June 1, 1944

Arthur W. Schuman

Secretary

***STATE OF NEW YORK***

***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on July 30, 2008.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

Certificate of Report of Existence  
of

SOUTHAMPTON HOSPITAL ASSOCIATION

Exact Name of Corporation

Pursuant to Section 57 of the Membership Corporations Law

1. The name of the corporation is Southampton Hospital Assoc.. The  
Name of Corporation

original name was Southampton Hospital Association.

If name has been changed, insert original name.

2. The certificate of incorporation was filed in the Department  
of State on February 10th, 1944  
Date of Incorporation

3. The corporation was formed pursuant to Article 7, Membership Corporation Law  
Chapter 35 - Consolidated Laws  
Cite Incorporation Statute

4. The existence of the foregoing corporation is hereby continued.

20

Albert P. Loening

To be signed by an officer,  
trustee, director or five  
members in good standing.

Albert P. Loening - President

State of New York }  
County of Suffolk } SS.:

On this 27th day of December, 1950, before me

personally appeared Albert P. Loening to me personally known

and known to me to be the person(s) described in and who executed

the foregoing certificate, and ( he ) ~~( they )~~ thereupon acknowledged

to me that ( he ) ~~( they )~~ executed the same for the uses and purposes

therein mentioned.

Assunta J. Cancellieri  
Notary Public

ASSUNTA J. CANCELLIERI, No. 2606  
Notary Public in the State of New York  
Residing in Suffolk County  
Commission Expires March 30, 1951

County of Suffolk

NOTE: If the foregoing acknowledgment is taken without the State of  
New York, the signature of the notary public should be  
authenticated by a certificate of the clerk of the county in  
which such notary has power to act, or other proper officer.

*8 E X - 20*

Certificate of Report of  
Existence of

Exact Name of Corporation

Pursuant to Section 57  
of the  
Membership Corporations  
Law

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED JAN 17 1951

FILING FEE \$5.00

*Thomas Gleason*

Secretary of State

*Saukhampton Corp. Corp.*

*Saukhampton N. Y.*

***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on July 30, 2008.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

706330

- (1) INCREASE IN NUMBER OF DIRECTORS; and
- (2) CHANGE OF TIME OF ANNUAL MEETING.

of:

SOUTHAMPTON HOSPITAL ASSOCIATION

PURSUANT TO SECTION 30 OF THE MEMBERSHIP CORPORATIONS LAW.

WE, THE UNDERSIGNED, being respectively the President and the Secretary of the SOUTHAMPTON HOSPITAL ASSOCIATION, do certify and state:

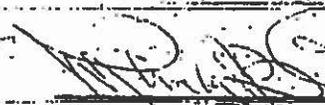
1. The name of the corporation is SOUTHAMPTON HOSPITAL ASSOCIATION.

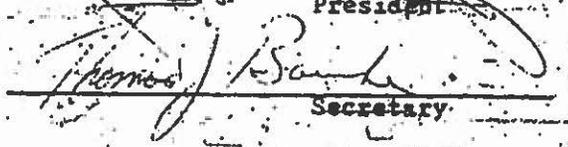
2. The Certificate of Incorporation was filed on the 10th day of February 1944 in the Office of the Secretary of State for the State of New York, and on the 20th day of December 1909 in the Office of the Clerk of the County of Suffolk, State of New York.

3. The number of directors of the corporation previously authorized is twenty-five (25). The number of directors as changed by this certificate shall be not less than twenty-five (25) nor more than forty (40).

4. The time previously fixed for holding the annual meeting of members of the corporation is the last Friday of June of each year. Henceforth, the annual meeting of members shall be held on the last Saturday of June of each year.

IN WITNESS WHEREOF, we have made, subscribed and acknowledged this certificate this 16 day of September, 1968.

  
 \_\_\_\_\_  
 President

  
 \_\_\_\_\_  
 Secretary

STATE OF NEW YORK )  
                          ) SS.  
COUNTY OF SUFFOLK )

On this 16 day of September, 1968, before me personally came MAURICE B. CUNNINGHAM and THOMAS J. BOURKE to me known to be the persons described in and who executed the foregoing certificate of change and they thereupon severally duly acknowledged to me that they executed the same.

*Paul H. Fordham*  
Notary Public

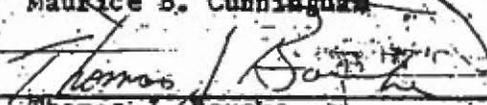
PAUL H. FORDHAM  
NOTARY PUBLIC, State of New York  
No. 33173700 - Suffolk County  
Commission Expires March 30, 1969

*N*

STATE OF NEW YORK )  
( SS. )  
COUNTY OF SUFFOLK )

MAURICE B. CUNNINGHAM and THOMAS J. BOURKE, being  
severally duly sworn, each for himself, deposes and says: that  
MAURICE B. CUNNINGHAM is the President of the SOUTHAMPTON HOSPITAL  
ASSOCIATION, and that THOMAS J. BOURKE is the Secretary thereof;  
that they were authorized to execute and file the foregoing  
~~certificate of amendment changing (1) the number of directors and~~  
(2) the time of the annual meeting of the SOUTHAMPTON HOSPITAL  
ASSOCIATION, pursuant to Section 30 of the Membership Corpora-  
tions Law, by the concurring vote of a majority of the members  
of the corporation present at an annual meeting held on the 29th  
day of June, 1968, upon notice pursuant to section 43 of the  
Membership Corporations Law, and that they subscribed such  
certificate by virtue of such authority.

  
Maurice B. Cunningham

  
Thomas J. Bourke

Sworn to before me this  
16 day of September, 1968.

  
Notary Public

PAUL H. FORDHAM  
NOTARY PUBLIC, State of New York  
No. 52-1223700 - Suffolk County  
Commission Expires March 30, 1969

CERTIFICATE OF  
(1) INCREASE IN NUMBER OF  
MEMBERS, AND  
(2) CHANGE OF TIME OF ANNUAL  
MEETING

HOSPITAL ASSOCIATION

NEW YORK  
STATE  
SECRETARY OF STATE  
SEP 19 1968  
RECEIVED

*Handwritten signature*  
SECRETARY

*Handwritten signature*  
SECRETARY

*Handwritten signature*  
2/10/77

*Handwritten signature*  
2/10

*Handwritten signature*

***STATE OF NEW YORK***

***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on July 30, 2008.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State



**RESTATED CERTIFICATE OF INCORPORATION  
OF  
THE SOUTHAMPTON HOSPITAL ASSOCIATION  
(Under Section 805 of the Not-for-Profit Corporation Law)**

**F 981215000143**

The undersigned, John J. Ferry, Jr., M.D. and William H. Duggan, Jr., Esq., being respectively the President and Secretary of Southampton Hospital Association (the "Association"), to amend and restate the Certificate of Incorporation of the Association in accordance with Section 805 of the Not-for-Profit Corporation Law, hereby certify the following:

1. The name of the corporation is The Southampton Hospital Association and the corporation was formed under the name The Southampton Hospital Association.

2. The Certificate of Incorporation of the corporation (the "Certificate") was filed on December 20, 1909, under the Membership Corporation Law.

3. The Certificate, as amended and as now in full force and effect, shall be, and it hereby is, amended to provide that the Peconic Health Corporation is the sole member of the Association with certain express powers and that the Peconic Health Corporation shall appoint the Board of Directors of the Association.

4. The Certificate is hereby restated to set forth its entire text, as amended, as follows:

**FIRST:** The name of the corporation is The Southampton Hospital Association.

**SECOND:** The purpose of the corporation is to establish and maintain a general hospital at Southampton, Suffolk County, New York and to receive, collect and hold property either by gift, bequest, devise, or otherwise funds and

1

property, either real or personal, and to use and disburse the same in furtherance of the objects of the corporation.

**THIRD:** The principal office of the corporation is to be located in the Town of Southampton, County of Suffolk, New York.

**FOURTH:** The sole member of the corporation shall be the Peconic Health Corporation and, as the sole member of the corporation, the Peconic Health Corporation shall have the following powers:

(A) Authority and responsibility for appointing the corporation's Board of Directors;

(B) Authority and responsibility for developing, approving, and overseeing the implementation of the mission and goals of the corporation consistent with the needs of the Peconic Health Corporation and of the community served by the Southampton Hospital;

(C) Authority and responsibility for developing, approving, and overseeing the implementation of the strategic plan of the Southampton Hospital consistent with the needs of the Peconic Health Corporation and of the community served by the Southampton Hospital;

(D) Authority and responsibility for developing, approving, and overseeing the long range plan of the Southampton Hospital consistent with the needs of the Peconic Health Corporation and of the community served by the Southampton Hospital;

(E) Authority and responsibility for developing, approving, and overseeing the operating budget of the Southampton Hospital consistent with the needs of the Peconic Health Corporation and of the community served by the Southampton Hospital;

(F) Authority and responsibility for developing, approving, and overseeing the capital budget of the Southampton Hospital consistent with the needs of the Peconic Health Corporation and of the community served by the Southampton Hospital;

(G) Authority and responsibility for approving any capital indebtedness for the Southampton Hospital except that which is required for compliance with the Internal Revenue Code of 1986, as amended from time to time;

(H) Authority and responsibility for approving and submitting to the New York State Department of Health certificates of need for any new clinical programs or services of the Southampton Hospital that meet the threshold

dollar amount established by law for submission of certificate of need applications (or their legal equivalent) to the New York State Department of Health;

(I) Authority and responsibility for approving any academic affiliation involving the Southampton Hospital;

(J) Authority and responsibility for approving the addition or deletion of clinical services at the Southampton Hospital;

(K) Authority and responsibility for negotiating and approving any and all managed care contracts or other contracts having a material effect upon the Southampton Hospital; and

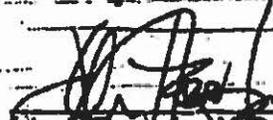
(L)<sup>57</sup> Authority and responsibility for approving the officers of the corporation.

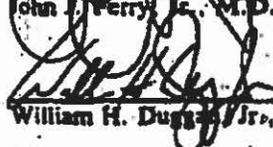
FIFTH: The number of directors of the corporation shall not be less than twenty-five (25) nor more than forty (40). The Board of Directors of the corporation shall be appointed by the Peconic Health Corporation.

SIXTH: The Secretary of State is designated as the agent of the corporation 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 240 Meeting House Lane, Southampton, New York 11968.

5. The foregoing amendments and restatement of the Certificate were authorized by the vote of the directors of the Association at a meeting of the directors on December 7, 1996 followed by the vote of the members of the Association on March 8, 1997.

IN WITNESS WHEREOF, we have made and subscribed this Certificate and hereby affirm under the penalties of perjury that its contents are true as of this 8 day of March, 1997.

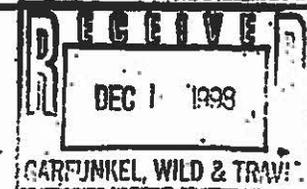
  
John J. Ferry, Jr., M.D., President

  
William H. Dugan, Jr., Esq., Secretary



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
CORNING TOWER-BUILDING  
ALBANY, N.Y. 12237

# PUBLIC HEALTH COUNCIL



December 1, 1998

Frederick I. Miller, Esq.  
Garfunkel, Wild & Travis, P.C.  
Attorneys at Law

111 Great Neck Road  
P. O. Box 220602  
Great Neck, New York 11021

Re: Restated Certificate of Incorporation of Southampton Hospital Association.

Dear Mr. Miller:

AFTER INQUIRY and INVESTIGATION, and in accordance with action taken at a meeting of the Public Health Council held on the 25th day of October, 1996, to consider the application of Peconic Health Corporation, Project #961026, I hereby certify that the Public Health Council consents to the filing of the Restated Certificate of Incorporation of Southampton Hospital Association, dated March 8, 1997.

Sincerely,

Karen S. Westervelt  
Executive Secretary

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	RESTATED CERTIFICATE OF INCORPORATION OF THE SOUTHAMPTON HOSPITAL ASSOCIATION	(Under Section 80c of the Not-for-Profit Corporation Law)	<p style="text-align: center;"><b>BILL</b></p> <p>GARFUNKEL WILD &amp; TRAVIS, P.C.          ATTORNEYS AT LAW          111 GREAT NECK ROAD          GREAT NECK, N.Y. 11021          (516) 393-2300</p>
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STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED DEC 15 1998

TAX \$

BY:

*OC*  
*Suffolk*

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5 981215000153

**STATE OF NEW YORK**

**DEPARTMENT OF STATE**

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on July 30, 2008.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

E-12

F06060900025

**CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF**

**THE SOUTHAMPTON HOSPITAL ASSOCIATION**

**Under Section 803 of the Not-For-Profit Corporation Law**

The undersigned, being the Chief Financial Officer of The Southampton Hospital Association, hereby certifies:

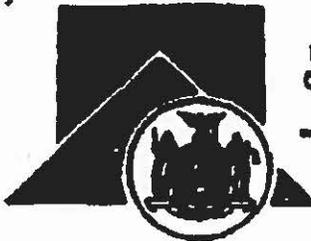
1. The name of the corporation is The Southampton Hospital Association (the "Corporation") and that is the name under which the Corporation was originally incorporated.
2. The Certificate of Incorporation of the Corporation was filed by the Department of State on February 10, 1944 under the New York State Membership Corporation Law.
3. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York. The Corporation is a Type B corporation under Section 201 of said law and will remain a Type B corporation after the filing of this Amendment.
4. The Certificate of Incorporation of the Corporation is hereby amended by deleting in its entirety Article FOURTH which names Peconic Health Corporation as the corporate member, and renumbering the following Articles accordingly.
5. This Amendment to the Certificate of Incorporation of the Corporation was authorized by vote of the Board of Trustees of the Corporation at a duly held meeting of the

Board held on July 23, 2005 and by Peconic Health Corporation ("Peconic"), the sole member of the Corporation.

6. The Secretary of State is designated as the agent of the Corporation upon whom process against the Corporation may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is: 240 Meeting House Lane, Southampton, New York 11968, Attention: President.

Dated: MARCH 16, 2006

  
NAME: CHRISTOPHER J. SCHULTZE  
TITLE: CHIEF FINANCIAL OFFICER



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
CORNING TOWER BUILDING  
ALBANY, N.Y. 12237

# PUBLIC HEALTH COUNCIL

June 8, 2006

Mr. Robert Wild  
Garfunkel, Wild and Travis  
Peconic Health Corporation  
111 Great Neck Road  
Great Neck, New York 11021

Re: Certificate of Amendment of the Certificate of Incorporation of Southampton Hospital Association

Dear Mr. Wild:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council held on the 20<sup>th</sup> day of January, 2006, I hereby certify that the Public Health Council consents to the filing of the Certificate of Amendment of the Certificate of Incorporation of Southampton Hospital Association, dated March 16, 2006.

Sincerely,

Donna W. Peterson  
Executive Secretary

/md

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060609000.215

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

OF

THE SOUTHAMPTON HOSPITAL ASSOCIATION

UNDER SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW

RECEIVED  
2006 JUN -8 PM 12: 00

102  
STATE OF NEW YORK  
DEPARTMENT OF STATE

JUN 09 2006

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BY WWS  
DFF

GARFUNKEL WILD & TRAVIS  
ATTORNEYS AT LAW  
111 GREAT NECK ROAD  
GREAT NECK, NY 11021

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DRAWDOWN

WWS/G.T.

060609000.215

2006 JUN -9 AM 10: 01

2006 JUN -9 AM 9: 08

FILED

RECEIVED

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FILING RECEIPT

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ENTITY NAME: THE SOUTHAMPTON HOSPITAL ASSOCIATION

DOCUMENT TYPE: AMENDMENT (DOMESTIC NFP)  
PROCESS PROVISIONS

COUNTY: SUFF

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FILED:12/17/2015 DURATION:\*\*\*\*\* CASH#:151217000408 FILM #:151217000379

FILER:

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GARFUNKEL WILD, P.C.  
ATTORNEYS AT LAW  
111 GREAT NECK ROAD  
GREAT NECK, NY 11021

ADDRESS FOR PROCESS:

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ATTENTION: PRESIDENT AND CHIEF EXECUTIVE OFFICER  
240 MEETING HOUSE LANE  
SOUTHAMPTON, NY 11968

REGISTERED AGENT:

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SERVICE COMPANY: EMPIRE CORPORATE & INFORMATION SERVICE SERVICE CODE: 12

FEES	65.00	PAYMENTS	65.00
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FILING	30.00	CASH	0.00
TAX	0.00	CHECK	0.00
CERT	0.00	CHARGE	0.00
COPIES	10.00	DRAWDOWN	65.00
HANDLING	25.00	OPAL	0.00
		REFUND	0.00

**STATE OF NEW YORK**  
**DEPARTMENT OF STATE**

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on December 18, 2015.

*Anthony Giardina*

Anthony Giardina  
Executive Deputy Secretary of State

E-12

15121700 0379

**CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
THE SOUTHAMPTON HOSPITAL ASSOCIATION  
Under Section 803 of the Not-For-Profit Corporation Law**

The undersigned, being the President and Chief Executive Officer of The Southampton Hospital Association (the "Corporation"), hereby certifies:

1. The name of the Corporation is The Southampton Hospital Association, and that is the name under which the Corporation was originally incorporated.

2. The Certificate of Incorporation of the Corporation was filed by the Department of State on February 10, 1944, under the Not-For-Profit Corporation Law of the State of New York.

3. The Corporation is a corporation as defined in subparagraph (a) of Section 102 of the Not-For-Profit Corporation Law of the State of New York.

4. The Certificate of Incorporation of the Corporation, as amended, is hereby amended to effectuate a change in the membership of the Corporation and reflect the withdrawal of the Corporation's sole corporate member, Peconic Health Corporation, dba East End Health Alliance, by deleting in its entirety Article SIXTH, which designates East End Health Alliance as the sole member of the Corporation.

151217000379

5. This Amendment to the Certificate of Incorporation of the Corporation was authorized by the Board of Trustees of East End Health Alliance, the sole member of the Corporation, at a duly held meeting on April 1, 2015.

6. This Amendment to the Certificate of Incorporation of the Corporation was authorized by the Board of Directors of the Corporation at a duly held meeting on April 25, 2015.

7. The Secretary of State is designated as the agent of the Corporation upon whom process against the Corporation may be served, and the post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is: 240 Meeting House Lane, Southampton, New York 11968, Attention: President and Chief Executive Officer.

IN WITNESS WHEREOF, the undersigned has executed and has verified this Certificate of Amendment this 27th day of April, 2015.



\_\_\_\_\_  
Name: Robert S. Chaloner  
Title: President and Chief Executive Officer



***PUBLIC HEALTH AND HEALTH PLANNING COUNCIL***

---

Empire State Plaza, Corning Tower, Room 1805  
Albany, New York 12237

(518) 402-0964  
PHHPC@health.ny.gov

November 20, 2015

Frank Cicero  
Cicero Consulting Associates VCC Inc.  
701 Westchester Avenue  
White Plains, New York 10604

**Re: Certificate of Amendment of the Certificate of Incorporation of The Southampton Hospital Association**

Dear Mr. Cicero:

AFTER INQUIRY and INVESTIGATION and in accordance with action taken at a meeting of the Public Health Council and Health Planning Council held on the 6th day of August, 2015, I hereby certify that the Public Health and Health Planning Council consents to the filing of the, Certificate of Amendment of the Certificate of Incorporation of The Southampton Hospital Association, dated April 27, 2015.

Sincerely,

*Colleen M. Leonard*  
Colleen M. Leonard  
Executive Secretary

/cl

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CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF  
THE SOUTHAMPTON HOSPITAL ASSOCIATION  
Under Section 803 of the Not-For-Profit Corporation Law

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2015 DEC 16 PM 3:06

loc  
STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED DEC 17 2015

TAX \$ \_\_\_\_\_

BY: me

FILED BY:

GARFUNKEL WILD, P.C.  
ATTORNEYS AT LAW  
111 GREAT NECK ROAD  
GREAT NECK, NY 11021

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DRAWDOWN

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## MEMORANDUM

**To:** Public Health and Health Planning Council (PHHPC)

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

**Date:** November 3, 2016

**Subject:** Daughters of Jacob Nursing Home Company, Inc.: Certificate of Incorporation Purposes Change and Name Change

---

Daughters of Jacob Nursing Home Company, Inc. is seeking approval to amend its Certificate of Incorporation to change its corporate name and to eliminate purpose language related to the operation of a nursing home. The proposed new name of the not-for-profit corporation is Daughters of Jacob Support Organization, Inc.

These changes are necessitated by the fact that the corporation sold its nursing home effective September 15, 2016 after PHHPC approved the sale pursuant to project No. 132128-E. PHHPC approval of the purposes change is required pursuant to Not-for-Profit Corporation Law § 804 and approval of the corporate name change is required pursuant to 10 NYCRR § 600.11(a)(1).

There is no legal objection to the proposed Certificate of Amendment of the Certificate of Incorporation of Daughters of Jacob Nursing Home Company, Inc. nor is there an objection to the name change. The proposed Certificate of Amendment of the Certificate of Incorporation of Daughters of Jacob Nursing Home Company, Inc. is in legally acceptable form.

Attachments.

New York State  
Department of State  
Division of Corporations, State Records and Uniform Commercial Code  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231

CERTIFICATE OF AMENDMENT  
OF THE  
CERTIFICATE OF INCORPORATION  
OF

DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.  
*(Name of Domestic Corporation)*

Under section 803 of the Not-for-Profit Corporation Law

FIRST: The name of the corporation is

Daughters of Jacob Nursing Home Company, Inc.

If the name of the corporation has been changed, the name under which it was formed is

Home and Hospital of the Daughters of Jacob Nursing Home Company, Inc.

SECOND: The certificate of incorporation was filed by the Department of State on

August 26, 1969

THIRD: The law the corporation was formed under is

the Membership Corporations Law and the Public Health Law

FOURTH: The certificate of incorporation as defined in subparagraph (5) of paragraph (a) of Section 102 of the Not-for-Profit Corporation Law.

FIFTH: The certificate of incorporation is amended as follows:

Paragraph 1 of the Certificate of Incorporation regarding the name of the Company is hereby amended to read in its entirety as follows:

**DAUGHTERS OF JACOB SUPPORT ORGANIZATION, INC.**

Paragraph II of the Certificate of Incorporation regarding the purposes of the Company

Is hereby *[check the appropriate box]*  added  amended to read in its entirety as follows:

**FIRST:** The purposes for which the Company is formed are exclusively charitable, educational and scientific in nature and more particularly:

(a) To establish, maintain and operate an adult home as defined in Section 2(25) of the Social Services Law of the State of New York; provided, however, that the Company shall not establish or operate such adult home without the prior written approval of the New York State Department of Health.

(b) To establish, maintain and operate an assisted living program as defined in Section 461-l of the New York State Social Services Law; provided, however, that the Company shall not establish or operate such assisted living program without the prior written approval of the New York State Department of Health.

(c) To apply for and receive grants, contracts and funds from federal, state and local government agencies, foundations or any other similar sources, to further the purposes of the Company.

(d) To accept, receive and acquire by way of gift, devise, bequest, lease, purchase or otherwise, and to hold, invest and reinvest all property real or personal, including shares of stock, bonds and securities of other corporations and to dispose of property, real or personal, by gift, lease, sale or otherwise, all as may be necessary or desirable for the attainment of the purposes of the Company.

(e) To do anything and everything reasonably and lawfully necessary, proper, suitable or convenient for the achievement of the foregoing purposes or for the furtherance of the purposes of the Company.

(f) To buy, own, sell, convey, assign, mortgage or lease any interest in real estate and personal property and to construct, maintain and operate improvements thereon necessary or incident to the accomplishment of the purposes of the Company.

(g) To borrow money and issue evidence of indebtedness in furtherance of any or all of the objects of its business, and to secure the same by mortgage, pledge or other lien on the Company's property to further the purposes of the Company.

In furtherance of the foregoing purposes, the Company shall have all of the general powers enumerated in Section 202 of the NFPCL, together with the power to maintain a fund or funds of real or personal property for any corporate purposes. The Company shall have the right to exercise such other powers as now are, or hereafter may be, conferred by law upon a corporation organized for the purposes herein above set forth or necessary or incidental to the powers so conferred, or conducive to the furtherance thereof, subject to the limitations and condition that, notwithstanding any other provisions of this

The Company is eligible under the provisions of section 461-b (1)(a) of the New York Social Services Law, as amended by Chapter 591 of the Laws of 1999, to engage in the foregoing purposes because the Company is a not-for-profit corporation. The foregoing provision may not be deleted, modified or amended without the prior approval of the New York State Department of Health.

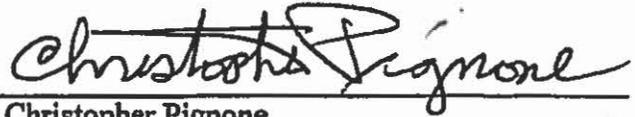
The Company shall not have the power to carry on any activity not permitted to be carried on by a corporation exempt from Federal income taxation under Section 501(c)(3) of the Code. Nothing herein shall authorize the Company, directly or indirectly, to do any act or establish or maintain any institution, or engage in, or include among its purposes, any of the activities mentioned in Sections 404(o) or 404(t) of the NFPCL or any of the other activities mentioned in Sections 404(a) through (w) of the NFPCL, although the Company is hereby authorized to become a member or stockholder of and/or provide financial and other support to corporations which do engage in or include such activities among their purposes. No substantial part of the activities of the Company shall consist in carrying on propaganda or otherwise attempting to influence legislation (except to the extent authorized by Section 501(h) of the Code during any fiscal year or years in which the Company has chosen to utilize the benefits authorized by that statutory provision.) The Company shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

Nothing contained in this Certificate of Incorporation shall authorize the Company to establish, operate or maintain a hospital, home care services agency, hospice, health maintenance organization or comprehensive health services plan as provided for by Articles 28, 36, 40 and 44 respectively, of the Public Health Law, or to provide a hospital service or health related service.

**SIXTH:** The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The address to which the Secretary of State shall forward copies of process accepted on behalf of the Company is c/o Findlay House, 1175 Findlay Avenue, Bronx, New York 10456, Attn: Christopher Pignone.

**SEVENTH :** The certificate of amendment was authorized by a vote of a majority of the entire board of directors. The member of the Company is DOJ Support Organization.

IN WITNESS WHEREOF, this Certificate has been signed this 4th day of October, 2016 by the undersigned who affirms that the statements made herein are true under the penalties of perjury.

A handwritten signature in black ink that reads "Christopher Pignone". The signature is written in a cursive style with a large, stylized initial "C".

---

Christopher Pignone  
Controller

**GARFUNKEL WILD, P.C.**

ATTORNEYS AT LAW

111 GREAT NECK ROAD • GREAT NECK, NEW YORK 11021

TEL (516) 393-2200 • FAX (516) 466-5964

www.garfunkelwild.com

**CHRISTINA VAN VORT**

**Partner Director**

Licensed in NY

Email: cvanvort@garfunkelwild.com

Direct Dial: (516) 393-2269

FILE NO.: 12081.0005

October 17, 2016

Ms. Colleen M. Leonard  
Executive Secretary  
New York State Department of Health  
Public Health and Health Planning Counsel  
Corning Tower Building – 1805  
Empire State Plaza  
Albany, New York 12237

Re: Daughters of Jacob Nursing Home Company, Inc. (the "Company")

Dear Ms. Leonard:

Our firm is legal counsel to Daughters of Jacob Nursing Home Company, Inc. (the "Company"). Enclosed on behalf of the Company is an executed copy of the proposed Certificate of Amendment of the Certificate of Incorporation of the Company.

In addition, we enclose a complete copy of all documents on file with the NYS Department of State.

The Certificate of Incorporation of the Company is being amended to update the purposes of the Company to delete its purpose to operate a nursing home. Please note that the Company sold its nursing home effective September 15, 2016. The sale was approved by the Public Health and Health Planning Counsel, Project No. 132128-E. A copy of the approval letter is attached for your convenience. As such, I request that the Public Health and Health Planning Counsel issue a letter confirming that its consent is not needed to file the proposed Certificate of Amendment of the Certificate of Incorporation with the New York State Department of State.

Please review the proposed Certificate of Amendment, and if acceptable, enclose the appropriate letter indicating that consent is not needed and return the original Certificate of Amendment of the Certificate of Incorporation to us so that we may complete the filing process.

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NEW YORK

NEW JERSEY

CONNECTICUT

Ms. Colleen M. Leonard

October 17, 2016

Page 2

In addition, please acknowledge your receipt of the enclosed by providing your stamp or signature in the space provided below on the enclosed copy of this letter and by returning same to the undersigned in the enclosed, postage-paid, self-addressed envelope.

Sincerely,



Christina Van Vort

Enclosures

**ACKNOWLEDGEMENT OF RECEIPT**

I hereby acknowledge receipt of the proposed Certificate of Amendment of Certificate of Incorporation of Daughters of Jacob Nursing Home Company, Inc.

\_\_\_\_\_  
Name:

Title:

**GARFUNKEL WILD, P.C.**

# PHHPC

## ***PUBLIC HEALTH AND HEALTH PLANNING COUNCIL***

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Empire State Plaza, Corning Tower, Room 1805  
Albany New York 12237

(518) 402-0964  
PHHPC@health.ny.gov

March 2, 2015

Meghan McNamara, Esq.  
Hinman Straub Attorneys at Law  
121 State Street  
Albany, New York 12207

Re: Application No. 132128 B DOJ Operations Associates, LLC d/b/a Triboro Center for Rehabilitation and Specialty Healthcare (Bronx County)

Dear Ms. McNamara:

I HEREBY CERTIFY THAT AFTER INQUIRY and investigation, the application of the DOJ Operations Associates, LLC d/b/a Triboro Center for Rehabilitation and Specialty Healthcare is APPROVED, the contingencies having now been fulfilled satisfactorily. This approval is conditioned upon the applicant's continued compliance with the Medicaid access condition, as included in the Public Health and Health Planning Council's approval of the project. The Public Health and Health Planning Council had considered this application and imposed the contingencies at its meeting of December 4, 2014. You are expected to comply with the conditions listed on the December 14, 2014 letter from James M. Clancy.

Public Health and Health Planning 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 Metropolitan Area/Regional Office of the New York State Office of Health Systems Management, 90 Church Street, New York, New York 10007 or (212) 417-5990, within 30 days of receipt of this letter.

Certificate of Need staff are interested in your experience with the CON process for this project. Please take a short survey to let us know how we are doing. Thank you.

The link to the survey is below:

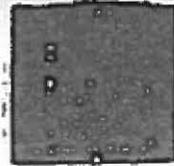
<https://www.surveymonkey.com/s/9Y6258P>

Sincerely,

*Colleen M. Leonard*

Colleen M. Leonard  
Executive Secretary

Enclosure



State of New York }  
Department of State } ss:

053930

*I hereby certify that I have compared the annexed copy with the original document filed by the Department of State and that the same is a correct transcript of said original.*

*Witness my hand and seal of the Department of State on*

AUG 29 1997

*Secretary of State*

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF INCORPORATION

OF

DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

Under Section 803 of the Not-  
For-Profit Corporation Law.

The undersigned, being the President and the Secretary respectively of DAUGHTERS OF JACOB NURSING HOME COMPANY, INC. certify:

1. The name of the corporation is DAUGHTERS OF JACOB NURSING HOME COMPANY, INC. The name under which the corporation was originally incorporated was HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

2. The Certificate of Incorporation was filed in the Office of the Department of State of the State of New York on the 26th day of August, 1969.

3. Article II of the Certificate of Incorporation is to be amended. Present Article II of the Certificate of Incorporation which reads as follows is to be eliminated:

II

"The purposes for which the company is to be formed are to provide nursing home accommodations for sick, invalid, infirm, disabled or convalescent persons of low income, and to this end to plan, construct, erect, build, acquire, alter, reconstruct, rehabilitate, own, maintain and operate a nursing home project pursuant to the terms and provisions of the Public Health Law."

4. The new Article II of the Certificate of Incorporation intended to be substituted for the foregoing by the Certificate of Amendment is as follows:

II

"The purposes for which the Company is to be formed are to provide either separately, or in combination, the following:

Nursing home accommodations for sick, invalid, infirm, disabled or convalescent persons of low income, and to this end to plan, construct, erect, build, acquire, alter, reconstruct, rehabilitate, own, maintain and operate a nursing home project pursuant to the terms and provisions of the Public Health Law.

Health related services for persons of low income which provide or offer lodging, board and physical care including, but not limited to, the recording of health information, dietary supervision and supervised hygienic services incident to such service, and to this end to plan, construct, erect, build, acquire, alter, reconstruct, rehabilitate, own, maintain and operate a nursing home project pursuant to the terms and provisions of the Public Health Law."

5. Article VIII of the Certificate of Incorporation is to be amended. Present Article VIII of the Certificate of Incorporation which reads as follows is to be eliminated:

VIII

"The duration of the Company is for a period of two years from the date of the filing of this certificate by the Secretary of State."

6. The new Article VIII of the Certificate of Incorporation intended to be substituted for the foregoing by this Certificate of Amendment is as follows:

VIII

"The duration of the Company shall be perpetual."

7. ~~Article XII of the Certificate of Incorporation is to be amended. Present Article XII of the Certificate of Incorporation which reads as follows is to be eliminated:~~

XII

"No part of the net income or net earnings of the Company shall inure to the benefit or profit of any private individual, firm or corporation.

8. The new Article XII of the Certificate of Corporation intended to be substituted for the foregoing by this Certificate of Amendment is as follows:

XII

"The Company is organized and shall be operated as a non-profit organization, shall not have power to issue certificates of stock or to declare or pay dividends, and shall be operated exclusively for the purposes enumerated in Article II hereof, thereby to lessen the burdens of government and promote social welfare. No part of the net income or net earnings of the Company shall inure to the benefit or profit of any private individual, firm or corporation. No officer or employee of the Company shall receive or be lawfully entitled to receive any pecuniary benefits from the operation thereof except as reasonable compensation for services. No member or director of the Company shall receive any salary, other compensation or pecuniary profit of any kind for services as such member or director other than reimbursement of actual and necessary expenses incurred in the performance of his duties.

Upon the dissolution of the Company the Board of Directors shall, after paying or making provisions for the payment of all of the liabilities of the Company,

copy of incorporation for Amgen, Inc. No. 107748-1-00  
you is to be understood as being a copy of the

distribute all of the remaining assets of the Company exclusively for the purposes of the Company or for a similar public use or purpose, to such organization or organizations organized and operating exclusively for charitable purposes as shall at the time qualify as an exempt organization or organizations under Section 501 (c) (3) of the Internal Revenue Code of 1954 as the same shall then be in force, or the corresponding provision of any future United States Internal Revenue Law, or to the United States of America, the State of New York, or a local government within the State of New York, as the Board of Directors shall determine, or in the absence of such determination by the Board of Directors such assets shall be distributed by the Supreme Court of the State of New York to such other qualified exempt organization or organizations as in the judgment of the Court will best accomplish the general purposes or a similar public use or purpose of this Company. In no event shall the assets of this Company upon dissolution be distributed to a director, officer, employee or member of this Company.

The dissolution of this Company and any distribution of the assets of this Company incident thereto shall be subject to such law, if any, then in force as may require the approval or consent thereto by any Court or judge thereof having jurisdiction or by any governmental department or agency or official thereof.

9. The manner in which the Amendment of the Certificate of Incorporation was authorized was by the concurring vote of all members of the Board of Directors of the corporation

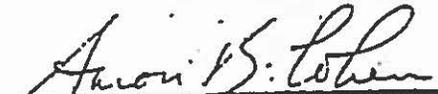
books of the company or any other  
of the company except as provided  
in the certificate of incorporation

OF THE BOARD OF DIRECTORS  
present at a special meeting, duly called for that purpose  
upon due notice to all <sup>BOARD</sup> members of record given in the  
manner required for a special <sup>BOARD</sup> meeting of the corporation;  
said meeting was held at 321 East 167th Street, Bronx, New  
York on the 22nd day of July, 1970 at 2:00 P. M. A quorum  
was present; the Certificate of Incorporation of this corpor-  
ation does not require the consent of more than a majority  
of <sup>BOARD</sup> members to amend its Certificate of Incorporation. There  
are no members <sup>OF THE CORPORATION</sup> eligible to vote.

8. The corporate purposes are not enlarged,  
limited or otherwise changed except as above set forth.

IN WITNESS WHEREOF, we have executed this  
Certificate this 2<sup>nd</sup> day of December, 1970.

  
Herbert A. Seltzer, President

  
Aaron B. Cohen, Secretary

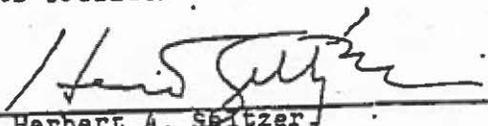
STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:

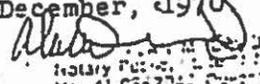
HEREBERT A. SELTZER, being duly sworn, deposes  
and says:

That deponent is the President of DAUGHTERS OF  
JACOB NURSING HOME COMPANY, INC., the corporation named in  
the foregoing Certificate of Amendment of Certificate of  
Incorporation; deponent has read the foregoing Certificate  
of Amendment of Certificate of Incorporation, and knows the  
contents thereof; that the same is true to deponent's own  
knowledge except as to the matter therein stated to be

~~alleged on information and belief, and as to those matters~~  
deponent believes it to be true; this verification is made  
by deponent because DAUGHTERS OF JACOB NURSING HOME COMPANY,  
INC., is a Not-For-Profit Corporation; deponent is an  
officer thereof, to wit: its President.

Subscribed and sworn to  
before me this 2nd day  
of December, 1970

  
Herbert A. Spitzer

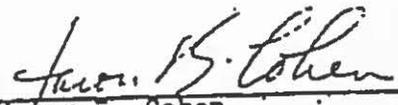
  
Notary Public, State of New York  
No. 41-096730 Queens County  
Term Expires March 30, 1971

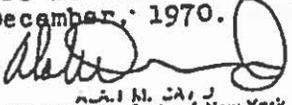
STATE OF NEW YORK )  
                          ) ss.:  
COUNTY OF NEW YORK )

AARON B. COHER, being duly sworn, deposes and  
says:

That deponent is the Secretary of DAUGHTERS OF  
JACOB NURSING HOME COMPANY, INC., the corporation named in  
the foregoing Certificate of Amendment of Certificate of  
Incorporation; deponent has read the foregoing Certificate  
of Amendment of Certificate of Incorporation, and knows the  
contents thereof; that the same is true to deponent's own  
knowledge except as to the matter therein stated to be  
~~alleged on information and belief, and as to those matters~~  
deponent believes it to be true; this verification is made  
by deponent because DAUGHTERS OF JACOB NURSING HOME COMPANY,  
INC., is a Not-For-Profit Corporation; deponent is an  
officer thereof, to wit: its Secretary.

Subscribed and sworn to  
before me this 2nd day  
of December, 1970.

  
Aaron B. Coher

  
Notary Public, State of New York  
No. 41-096730 Queens County  
Term Expires March 30, 1971

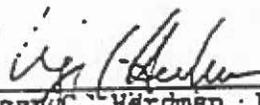
ENTRERED ON THE RECORDS OF THE STATE

CONSENT TO CERTIFICATE OF AMENDMENT OF  
CERTIFICATE OF INCORPORATION OF DAUGHTERS  
OF JACOB NURSING HOME COMPANY, INC. BY  
COMMISSIONER OF HEALTH

I, HOLLIS S. INGRAHAM, M.D., Commissioner of  
Health of the State of New York, do this 1st day of  
February, 1971, pursuant to Article 28-A of the Public  
Health Law, hereby certify that I consent to the filing  
of the foregoing Certificate of Amendment of Certificate  
of Incorporation of Daughters of Jacob Nursing Home  
Company, Inc. with the Secretary of State of the State  
of New York.

Dated: February 1, 1971

HOLLIS S. INGRAHAM, M.D.  
Commissioner of Health

By   
Roger C. Herdman, M.D.  
Deputy Commissioner

The undersigned has no objection to the granting of judicial approval hereon, and waives statutory notice.

LOUIS J. LEFKOWITZ  
ATTORNEY GENERAL  
STATE OF NEW YORK

Dated: 1970. By Assistant Attorney General

APPROVAL OF CERTIFICATE OF AMENDMENT OF CERTIFICATE OF INCORPORATION OF DAUGHTERS OF JACOB NURSING HOME COMPANY, INC. BY JUSTICE OF THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF THE BRONX

GEORGE STARR

The undersigned, a Justice of the Supreme Court of the State of New York, County of the Bronx, wherein is located the principal office of the Daughters of Jacob Nursing Home Company, Inc. hereby approves the within Certificate of Amendment of Certificate of Incorporation of Daughters of Jacob Nursing Home Company, Inc. and the filing thereof.

Dated: *BRONX, NY*  
*February 4, 1970.*

*George Starr*  
J.S.C.  
JUSTICE OF THE SUPREME COURT  
OF THE STATE OF NEW YORK  
FIRST JUDICIAL DISTRICT

Dated: FEB 3, 1971

By *Richard J. Wallerstein*  
Assistant



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
**PUBLIC HEALTH COUNCIL**

RICHARD N. MATTON  
EXECUTIVE SECRETARY

State of New York  
PUBLIC HEALTH COUNCIL  
Albany, New York

KNOW ALL MEN BY THESE PRESENTS:

In accordance with action taken, after due inquiry and investigation, at a meeting of the Public Health Council held on the 22nd day of January, 1971, I hereby certify that the certificates of amendment to the certificate of incorporation of Daughters of Jacob Nursing Home Co., Inc., extending the existence of the corporation to perpetuity, providing for the disposition of assets on dissolution, and extending the purposes and powers, is APPROVED.

*Richard N. Matton*  
SECRETARY

Albany, New York  
Dated: February 1, 1971

COUNCIL

ABRAHAM S. MOORE, M.D.  
CHAIRMAN  
GEORGE BALM, M.D.  
BLONVA R. BOND  
DETLEV BRONK, M.D.

CONDON E. BROWN  
HERMAN E. WILTBOR, M.D.  
GERALD B. MANLY, M.D.  
GEORGE R. METCALF  
W. KENNETH HILAND, D.O.

JOHN F. ROACH, M.D.  
HOWARD A. RUSK, M.D.  
WILLIAM M. WISELY, D. ENG.  
HOLLIS S. INGRAHAM, M.D.  
EX OFFICIO

9

887008-10

CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION

DAUGHTERS OF JACOB NURSING  
HOME COMPANY, INC.

778505-8

8/24/69 Corp

revised 4/22/70

B. W. & Type D

orig - Home and Hospital of the  
Daughters of Jacob Nursing Home  
Company, Inc.

8/24/69

Duration 3 years

E

ys

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED FEB 5 1971

TAX & FILING FEE \$ 30

File P. Emery

Secretary of State

P-03 Emery

LAW OFFICES  
OF  
WEISMAN, CELLER, ALLAN, SPETT & SHEINBERG  
1801 BROADWAY  
NEW YORK, N.Y. 10030

10



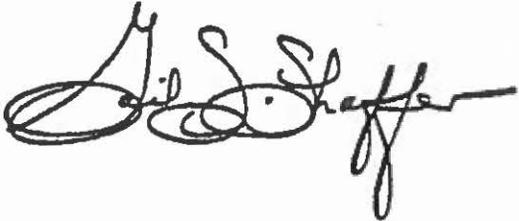
State of New York }  
Department of State } ss:

053900

*I hereby certify that I have compared the annexed copy with the original document filed by the Department of State and that the same is a correct transcript of said original.*

*Witness my hand and seal of the Department of State on*

AUG 23 1947



*Secretary of State*

667425

CERTIFICATE OF TYPE OF  
NOT-FOR-PROFIT CORPORATION OF

DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

Under Section 113 of the Not-For-Profit Corporation Law

We the undersigned, President and Secretary of DAUGHTERS OF JACOB NURSING HOME COMPANY, INC., certify:

1. The name of the corporation is DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

2. The name under which the corporation was originally incorporated was HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

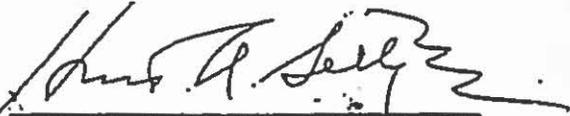
3. The Certificate of Incorporation of the corporation was filed by the Department of State on August 26, 1969, and the corporation was formed pursuant to the Membership Corporations Law and the Public Health Law.

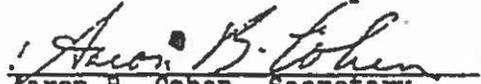
4. The post office address within the State of New York to which the Secretary of State shall mail a copy of any notice required by law is 321 East 167th Street, Bronx, New York 10456

5. Under Section 201 (Purposes) of the Not-For-Profit Corporation Law, DAUGHTERS OF JACOB NURSING HOME COMPANY, INC. is a Type D Not-For-Profit Corporation as defined in this chapter.

IN WITNESS WHEREOF, we have executed this Certificate this

26<sup>th</sup> day of October, 1970.

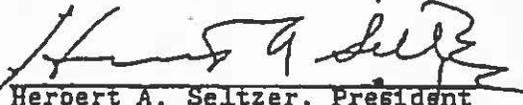
  
Herbert A. Seltzer, President

  
Aaron B. Cohen, Secretary

STATE OF NEW YORK  
COUNTY OF BRONX

} SS.:

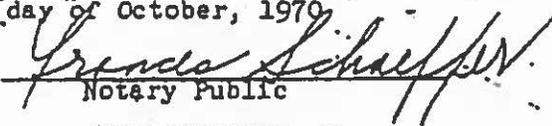
HERBERT A. SELTZER and AARON B. COHEN, each being severally duly sworn, severally depose and say, each for himself, that he, Herbert A. Seltzer, is the President of DAUGHTERS OF JACOB NURSING HOME COMPANY, INC., and he, Aaron B. Cohen, is the Secretary of said corporation; that they have read the foregoing Certificate of Type of Not-For-Profit Corporation of DAUGHTERS OF JACOB NURSING HOME COMPANY, INC., under Section 113 of the Not-For-Profit Corporation Law and know the contents thereof; that the same is true to their own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters they believe it to be true.

  
Herbert A. Seltzer, President

  
Aaron B. Cohen, Secretary

Sworn to before me this

*26<sup>th</sup>* day of October, 1970

  
Notary Public

Notary Public for the State of New York  
Qualified in the County of  
Bronx  
Commission Expires March 10, 1972

867415 - B

*membr*

Home (4) Hospital of the Daughters of Jacob  
Nursing Home (Co), Inc. 8/26/69 NY

CERTIFICATE OF TYPE OF  
NOT-FOR-PROFIT CORPORATION

of

DAUGHTERS OF JACOB NURSING  
HOME COMPANY, INC.

Bront  
assd 4/22/70

*dy*

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED NOV 5 1970

TAX & FILING FEB 3 1971  
*None*

Secretary of State  
*113*

BY *03 Bront*  
*Typed*

*3*

LAW OFFICES  
OF  
WEISHAN, CELLER, ALLAN, SPETT & SHEINBERG  
1201 BROADWAY  
NEW YORK, N.Y. 10038



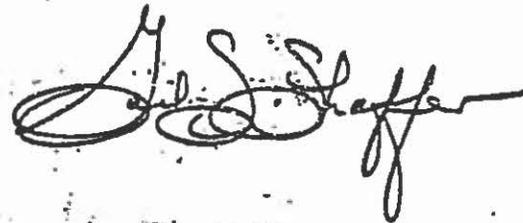
State of New York }  
Department of State } ss:

053900

*I hereby certify that I have compared the annexed copy with the original document filed by the Department of State and that the same is a correct transcript of said original.*

*Witness my hand and seal of the Department of State on*

AUG 29 1897



*Secretary of State*

CERTIFICATE OF CHANGE OF NAME  
OF  
HOME AND HOSPITAL OF THE  
DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

To

DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

Pursuant to Section 40 of the General Corporation Law

WE, Blanche D. Ratner and Bessie Levine, being  
respectively the President and Secretary of HOME AND HOSPITAL  
OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC., a  
membership corporation, hereby certify as follows:

1. The name of this corporation is HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.
2. The Certificate of Incorporation was filed in the office of the Secretary of the State of New York on the 26th day of August 1969.
3. The new name to be assumed by this corporation is DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

IN WITNESS WHEREOF, we have made, signed and  
acknowledged this Certificate this 11<sup>th</sup> day of March, 1970.

Blanche D. Ratner  
President

Bessie Levine  
Secretary

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) SS.:

On this 11<sup>th</sup> day of March, 1970 before me personally came BLANCHE D. RATNER and BESSIE LEVINE, to me known and known to me to be the persons described in and who executed the foregoing Certificate of Change of Name and they thereupon severally duly acknowledged to me that they executed the same.

Notary Public, State of New York  
No. 0938330  
Qualified in West County  
Commenced Highest March 30, 1970

Irving L. Stern  
Notary Public

STATE OF NEW YORK }  
COUNTY OF NEW YORK }

SS.

BLANCHE D. RATNER and BESSIE LEVINE, being duly sworn, depose and say, and each for herself deposes and says:

THAT she, Blanche D. Ratner, is the President of HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC., and she, Bessie Levine, is the Secretary thereof;

THAT they were duly authorized to execute and file the foregoing Certificate of Change of Name of said corporation by the votes cast in person or by proxy of a majority of the members of record of the corporation who are entitled to vote;

THAT said votes were cast at a meeting of the members called for that purpose upon like notice as that required for annual meetings of the said corporation, the said meeting having been held on the 6th day of January 1970.

*Blanche D. Ratner*  
Blanche D. Ratner

*Bessie Levine*  
Bessie Levine

Sworn to before me this 11<sup>th</sup>  
day of March, 1970.

*Henry S. Steph*  
Notary Public

HENRY S. STEPH  
Notary Public, State of New York  
No. 03. 2  
Qualified in Br. 1-1-70  
Commission Expires March 20, 1971

2

I, HOLLIS B. INGRAHAM, Commissioner of Health  
of the State of New York, do this 13th day of April, 1970  
pursuant to Article 28-A of the Public Health Law, hereby  
consent to the filing of the foregoing Certificate of  
Change of Name of HOME AND HOSPITAL OF THE DAUGHTERS OF  
JACOB NURSING HOME COMPANY, INC. to DAUGHTERS OF JACOB  
NURSING HOME COMPANY, INC. with the Secretary of State of  
the State of New York.

HOLLIS B. INGRAHAM  
Commissioner of Health

By: Donald G. Jackson

Deputy Commissioner



STATE OF NEW YORK

DEPARTMENT OF SOCIAL SERVICES

1450 WESTERN AVENUE  
ALBANY, NEW YORK 12203

BALDWIN MAULL  
CHAIRMAN  
STATE BOARD OF SOCIAL WELFARE

GEORGE K. WYMAN  
COMMISSIONER

FELIX INFANSTO  
COUNSEL AND CHIEF SECRETARY

March 25, 1970

Honorable John J. Ghezzi  
Deputy Secretary of State  
Division of Corporations  
162 Washington Avenue  
Albany, New York 12225

Re: Certificate of Change of Name of Home and  
Hospital of the Daughters of Jacob Nursing Home Company, Inc. to  
Daughters of Jacob Nursing Home Company, Inc.

Dear Mr. Ghezzi:

The present purpose of Home and Hospital of the Daughters of Jacob Nursing Home Company, Inc. approved by the State Board of Social Welfare June 17, 1969 and filed with the Secretary of State August 26, 1969 authorizes the corporation "To provide nursing home accommodations for sick, invalid, infirm, disabled or convalescent persons..."

The corporation currently is licensed by the Department of Health to operate a nursing home, and this Department has no objection to the change of the name of Home and Hospital of the Daughters of Jacob Nursing Home Company, Inc. to Daughters of Jacob Nursing Home Company, Inc.

Very truly yours,

STATE BOARD OF SOCIAL WELFARE

*Felix Infansto*  
FELIX INFANSTO  
Secretary

4

778505-1 829135-5

Ment  
8/26/69

Bronx Co

4/6

CERTIFICATE OF CHANGE OF NAME  
OF  
HOME AND HOSPITAL OF THE  
DAUGHTERS OF JACOB NURSING  
HOME COMPANY, INC.

To

DAUGHTERS OF JACOB NURSING  
HOME COMPANY, INC.

*K*

*11/11/70*

*TO 11/11/70  
J C 4/1/71*

STATE DEPARTMENT OF STATE  
FILED APR 22 1970  
TAN 11/11  
BRINGLES 38

Secretary of State

*13-1300f*

LAW OFFICES  
OF

WEISHAN, CELLER, ALLAN, SPETT & SHEINBERG  
1301 BROADWAY  
NEW YORK, N.Y. 10020

5

RECEIVED  
APR 13 1970  
BUREAU OF HOSPITAL  
CONSTRUCTION FINANCING

*Com. Comm. Sec. 205Y OAL*

FILED



CERTIFICATE OF INCORPORATION

of

HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB  
NURSING HOME COMPANY, INC.

Pursuant to the Membership Corporation Law  
and the Public Health Law.

WE, the undersigned, for the purpose of forming  
a nursing home company pursuant to the Membership Corpora-  
tions Law and the Public Health Law of the State of New York  
hereby certify:

I

The name of the proposed corporation is  
HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB  
NURSING HOME COMPANY, INC.

II

The purposes for which the Company is to be formed  
are to provide nursing home accommodations for sick, invalid,  
infirm, disabled or convalescent persons of low income, and  
to this end to plan, construct, erect, build, acquire, alter,  
reconstruct, rehabilitate, own, maintain and operate a  
nursing home project pursuant to the terms and provisions of  
the Public Health Law.

III

The territory in which the operations of the Company  
will be principally conducted is the State of New York.

IV.

The principal office of the Company is to be located  
in the City of New York, County of The Bronx, State of New  
York.

The number of directors of the Company shall be not less than three nor more than fifteen. Directors shall be elected by the members of the Company. One additional director may be designated by the Commissioner of Health of the State of New York (hereinafter referred to as the "Commissioner"). In the absence of fraud or bad faith said additional director appointed by the Commissioner shall not be personally liable for the debts, obligations or liabilities of the Company.

VI

The names and residences of the directors of the Company until the first annual meeting are:

<u>Name</u>	<u>Address</u>
Milton C. Weisman	575 Park Avenue New York, N. Y. 10021
Philip A. Vogelmann	35 East 76th Street New York, N. Y. 10021
Walter H. Weinstein	1008 Fifth Avenue New York, N. Y. 10028
Matthew B. Rosenhaus	Picatinny Road Morristown, New Jersey
Blanche D. Ratner	207 West 86th Street New York; N. Y. 10024

VII

The names and residences of the subscribers to this Certificate of Incorporation are:

<u>Name</u>	<u>Address</u>
Milton C. Weisman	575 Park Avenue New York, N. Y. 10021
Philip A. Vogelmann	35 East 76th Street New York, N. Y. 10021

Walter H. Weinstein

1008 Fifth Avenue  
New York, N. Y. 10028

Matthew B. Rosenhaus

Picatinny Road  
Morristown, New Jersey

Blanche D. Ratner

207 West 86th Street  
New York, N. Y. 10024

VIII

The duration of the Company is for a period of two years from the date of the filing of this Certificate by the Secretary of State.

IX

The real property of the Company shall not be sold, transferred, encumbered or assigned except as permitted by the provisions of the Public Health Law.

X

The Company has been organized exclusively to serve a public purpose and it shall be and remain subject to the supervision and control of the Commissioner pursuant to the provisions of the Public Health Law.

XI

All income and earnings of the Company shall be used exclusively for its corporate purposes.

XII

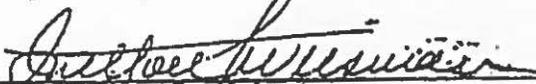
No part of the net income or net earnings of the Company shall inure to the benefit or profit of any private individual, firm or corporation.

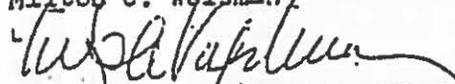
XIII

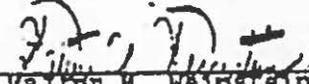
All of the subscribers to the Certificate of Incorporation are of full age. At least two-thirds of them are citizens of the United States and at least one of them

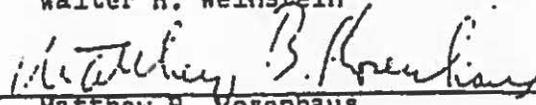
is a resident of the State of New York. At least one of the persons named as a director of the Company is a citizen of the United States and a resident of the State of New York.

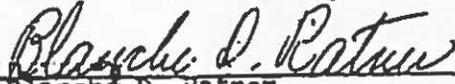
IN WITNESS WHEREOF, we have made, subscribed and acknowledged this Certificate of Incorporation, in quadruplicate, this 5<sup>th</sup> day of September, 1967.

  
Milton C. Weisman

  
Philip A. Vogelman

  
Walter H. Weinstein

  
Matthew B. Wosenhaus

  
Blanche D. Ratner

STATE OF NEW YORK }  
COUNTY OF NEW YORK } SS.:

On this 5<sup>th</sup> day of September, 1967, before me personally came MILTON C. WEISMAN, to me known and known to me to be the person described in and who executed the foregoing Certificate of Incorporation of HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC. and he duly acknowledged to me that he executed the same.

*Pauline J. ...*

PAULINE J. ...  
NOTARY PUBLIC  
9

STATE OF NEW YORK }  
COUNTY OF NEW YORK } SS.:

On this 7<sup>th</sup> day of September, 1967, before me personally came PHILIP A. VOGELMAN, WALTER H. WEINSTEIN, MATTHEW B. ROSENHAUS and BLANCHE D. RATNER, to me known and known to me to be the persons described in and who executed the foregoing Certificate of Incorporation of HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC. and they duly acknowledged to me that they executed the same.

*Francis Schaffer*  
Notary Public

FRANCIS SCHAEFFER Notary Public  
State of New York No. 22,347 210  
Commission Expires March 30, 1968

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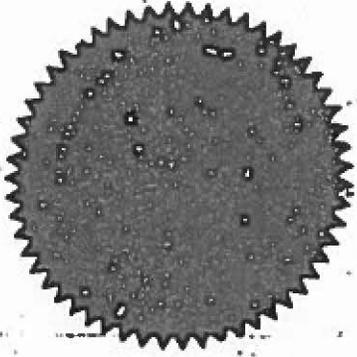


# State Board of Social Welfare

Albany

Know all Men by These Presents:

At a meeting of the State Board of Social Welfare, held on the seventeenth day of June, 1969, due inquiry and investigation having been made, the Board approved the application of HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC., No. 6-54, a membership corporation, for approval of the proposed certificate of incorporation pursuant to Section 35 of the Social Services Law and Article 28-A of the Public Health Law, empowering it to establish, maintain and operate a 300 bed nursing home in the County of Bronx, New York.



In Witness Whereof, the State Board of Social Welfare has caused these presents to be signed in accordance with the provisions of the statutes and its by-laws, and the official seal of the Board and of the Department to be hereunto affixed, this eighteenth day of June, in the year one thousand nine hundred and sixty-nine.

*Joseph J. ...*  
Secretary

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CONSENT OF INCORPORATION BY  
COMMISSIONER OF HEALTH

I, HOLLIS S. INGRAHAM, M.D., Commissioner of Health

of the State of New York, do this 24 day of June, 1969  
pursuant to Article 28-A of the Public Health Law hereby  
certify that I consent to the filing of the foregoing  
Certificate of Incorporation of HOME AND HOSPITAL OF THE  
DAUGHTERS OF JACOB NURSING HOME COMPANY, INC., with the  
Secretary of State of the State of New York.

Hollis S. Ingraham, M.D.  
Commissioner of Health

By Donald G. Dickson  
Donald G. Dickson, M.D.  
Deputy Commissioner

The undersigned, a Justice of the Supreme Court of  
the State of New York, County of The Bronx; wherein is located  
the principal office of HOME AND HOSPITAL OF THE DAUGHTERS OF  
JACOB NURSING HOME COMPANY, INC., hereby approves the within  
Certificate of Incorporation of HOME AND HOSPITAL OF THE  
DAUGHTERS OF JACOB NURSING HOME COMPANY, INC. and the filing  
thereof.

Dated: July 1, 1969

Samuel A. Spiegel  
Justice of the Supreme Court

SAMUEL A. SPIEGEL

Notice of Application  
(This is not to be construed as  
approval on behalf of any  
Department or Agency of the  
State of New York, nor an  
authorization of activities  
otherwise limited by law.)

Dated: 7/1/69

Louis J. Lepore  
Attorney General

By William A. Allen  
Assistant Attorney General

778505

4/11/17

CERTIFICATE OF INCORPORATION

of

HOME AND HOSPITAL OF THE DAUGHTERS OF JACOB NURSING HOME COMPANY, INC.

Pursuant to the Membership Corporations Law and the Public Health Law.

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED AUG 26 1969.

TAX \$ None  
FILING FEE \$ 50

*John P. Eminger*  
Secretary of State

By MB  
P O 3 Brown

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LAW OFFICES  
OF  
WEISMAN, CELLER, ALLAN, SPETT & SHEINBERG  
1501 BROADWAY  
NEW YORK, N.Y. 10036