



**Project # 172168-C
Bronx-Lebanon Hospital Center - Fulton Division**

**Program: Hospital
Purpose: Construction**

**County: Bronx
Acknowledged: November 13, 2017**

Executive Summary

Description

Bronx-Lebanon Hospital Center - Fulton Division (Bronx-Lebanon) is a 164-bed, voluntary not-for-profit, acute care hospital located at 1276 Fulton Avenue, Bronx (Bronx County). The hospital is licensed under Article 28 of the Public Health Law and Article 31 of the Mental Hygiene Law and is currently certified for 98 psychiatric beds. Bronx-Lebanon requests approval to permanently certify six adult psychiatric beds, which have been operated on a temporary basis since 2010 at the request from the Office of Mental Health (OMH). Upon approval by the Public Health and Health Planning Council (PHHPC), the licensed psychiatric beds will increase to 104 beds.

When St. Vincent's Medical Center closed in 2010, OMH asked Bronx-Lebanon to add temporary psychiatric beds to meet the pressing needs of the community. The applicant indicated that the hospital's Inpatient Psychiatric Units are operating at capacity levels in response to the increasing mental health needs of the community and their Psychiatric Emergency Room continues to generate admissions. Permanent certification of the six adult psychiatric beds will enable the hospital to continue to respond to the mental health needs of the community and meet ongoing demand for inpatient care.

OPCHSM Recommendation

Approval

Need Summary

Bronx Lebanon has been running these temporary psychiatric beds since 2010 and has been operating over 100% utilization the last five years, with expected continued growth. The unit will not be able to handle the volume without the addition of these 6 beds.

Program Summary

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

Financial Summary

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

Revenues	\$31,072,500
Expenses	<u>30,718,600</u>
Net Income	\$353,900

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

February 8, 2018

Need Analysis

Background

Bronx-Lebanon Hospital Center Fulton has the following certified beds and services:

Table 1: Bronx-Lebanon Hospital Center Fulton

Services	
Amb. Surg. - Multi Specialty	Linear Accelerator
Cardiac Cath – Adult Diag.	Lithotripsy
Cardiac Cath - PCI	Medical Serv - Primary Care
Certified Mental Health Services O/P	Medical Social Services
Chem. Dep. - Detoxification	Methadone Maintenance O/P
Chem. Dep. - Rehabilitation	Nuclear Med - Diagnostic
Chem. Dep. - Rehabilitation O/P	Psychiatric
Chem. Dep. - Withdrawal O/P	Radiology - Diagnostic
Clinic Part Time Services	Respiratory Care
Clinical Laboratory Service	Therapy - Physical O/P
Comp Psych Emer. Program	Intensive Care
Emergency Department	

Source: HFIS, 2015

Table 2: Bronx-Lebanon Hospital Center Fulton

Bed Category	Current Beds	Bed Change	Beds Upon Completion
Chemical Depend. – Rehab.	30		30
Chemical Depend. – Detox.	36		36
Psychiatric	98	6	104
Total	164	6	170

Source: HFIS, 2017

Table 3: Bronx-Lebanon Hospital Occupancy 2010 - 2016

	Current Beds	2012	2013	2014	2015	2016
Med/Surg	0	0.0%	0.0%	0.0%	0.0%	0.0%
Pediatric	0	0.0%	0.0%	0.0%	0.0%	0.0%
Obstetric	0	0.0%	0.0%	0.0%	0.0%	0.0%
General Psychiatric	98	115.1%	111.2%	113.1%	108.8%	108.5%
Chemical Dependence	66	60.9%	65.1%	55.4%	62.2%	60.0%
Total	164	94.5%	93.3%	90.6%	90.7%	89.8%

Note: Occupancy is calculated based on certified beds, not including temporary beds

Source HFIS, 2017

Analysis

Bronx- Lebanon is widely recognized as a leader in the provision of community mental health services, accounting for more than 200,000 visits annually, and offering comprehensive care at the inpatient and outpatient levels for mental health and chemical dependency problems. Permanent certification of six additional Adult Inpatient Psychiatric Beds will enable Bronx-Lebanon to move forward in responding to the mental health needs of the community.

Conclusion

Bronx- Lebanon's service area is amongst the poorest in the nation. Bronx hospitals have seen a significant increase in psychiatric discharges over the last few years. The permanent approval of these psychiatric beds will assist in providing services to the growing number of patients in the area.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

Since the beds have been operating under a temporary approval, there are no significant programmatic changes anticipated and no other changes in services. It is anticipated that current year staffing of 87.60 FTEs will increase by 5.40 FTEs in the first year post-approval and remain at that level through the third year of operation.

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.

On August 16, 2010, a Stipulation and Order and \$16,000 fine was issued to Bronx Lebanon Hospital for an incident of wrong sided surgery based on the care rendered to a juvenile who was admitted for a left side hernia repair. A right repair was agreed to at "time out" but no hernia was found during surgery exposing the error.

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

Operating Budget

The applicant has submitted an operating budget, in 2018 dollars, during the first and third years, summarized below:

	<u>Current Year</u>		<u>Years One and Three</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid FFS	\$1,112.33	\$15,693,900	\$1,112.38	\$16,655,000
Medicaid MC	\$740.56	4,767,000	\$740.61	5,058,800
Medicare FFS	\$1,138.74	3,979,900	\$1,138.79	4,223,600
Medicare MC	\$936.06	2,645,300	\$935.84	2,807,200
Commercial FFS	\$965.29	631,300	\$965.00	669,900
Commercial MC	\$734.36	333,400	\$735.71	354,000
Uninsured/Self-Pay	\$363.50	592,500	\$365.50	629,000
Other*		1,225,000		1,300,000
Less Bad Debt		<u>(588,900)</u>		<u>(625,000)</u>
Total Revenues		\$29,279,400		\$31,072,500
<u>Expenses</u>				
Operating	\$971.95	\$28,774,700	\$971.81	\$30,536,600
Capital	5.79	171,500	5.79	182,000
Total Expenses	\$977.74	\$28,946,200	\$977.60	\$30,718,600
Excess Revenues		<u>\$333,200</u>		<u>\$353,900</u>
Utilization (Pt Days)		29,605		31,418

*Other revenues consists of the allocated portion of the Medical Education Revenues.

Expense and utilization assumptions are based on the historical experience of the hospital in operating psychiatric beds.

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

	<u>Current Year</u>	<u>Years One & Three</u>
Medicaid FFS	47.66%	47.65%
Medicaid MC	21.74%	21.73%
Medicare FFS	11.80%	11.80%
Medicare MC	9.54%	9.54%
Commercial FFS	2.21%	2.20%
Commercial MC	1.53%	1.54%
Uninsured/Self-Pay	5.52%	5.54%

Capability and Feasibility

There are no project costs associated with this application. The submitted budget indicates an incremental excess of revenues over expenses of \$20,700 during the first and third years, respectively. Revenues are based on current reimbursement methodologies for psychiatric services. The submitted appears reasonable.

BFA Attachment A is the 2015 and 2016 certified financial statements of Bronx-Lebanon Hospital Center. As shown, the entity had an average positive working capital position and an average positive net asset position from 2015 through 2016. Also, the entity achieved an average excess of operating revenues over expenses of \$ 15,394,235 from 2015 through 2016.

BFA Attachment B is the internal financial statements of Bronx-Lebanon Hospital Center as of September 30, 2017. As shown, the entity had a positive working capital position and a positive net asset position through September 30, 2017. Also, the entity achieved an excess of operating revenues over expenses of \$6,632,000 through September 30, 2017.

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 | Financial Summary - 2015 and 2016 certified financial statements of Bronx-Lebanon Hospital Center |
| BFA Attachment B | Financial Summary - September 30, 2017 internal financial statements of Bronx-Lebanon Hospital Center |



**Project # 172212-C
North Shore University Hospital**

**Program: Hospital
Purpose: Construction**

**County: Nassau
Acknowledged: October 13, 2017**

Executive Summary

Description

North Shore University Hospital (NSUH), a 738-bed, voluntary not-for-profit, Article 28 acute care hospital located at 300 Community Drive, Manhasset (Nassau County), seeks approval to construct an eight-story addition at the hospital's main campus to include 18 operating rooms (ORs), a post-anesthesia care unit (PACU) and an intensive care unit (ICU), and to certify 18 net new ICU beds. Upon completion, the facility's final bed count will be 756 beds including a total of 97 ICU beds. The project is known as the Advanced Surgical Pavilion (ASP) and is being done to replace undersized and antiquated ORs and renovate and expand post-surgical and critical care unit space. The proposed project will enable the facility to expand the capacity of its surgical programs and related critical care services to meet volume demands and the increasingly complex needs of NSUH's patient population.

The proposed 314,704 sq. ft. ASP will be built in two phases, as follow:

- Phase One - Construction of a new eight level ASP with connections to the main NSUH campus on Levels G, floors 1 and 2, shelled floors 6 and 7, and an elevated parking deck. The new building will consist of 18 ORs (3 Hybrid and 15 Universal, for 5 net new ORs), and two 22-bed ICUs to replace and expand upon the existing ICU facilities currently serving the cardiothoracic and neurosurgical programs (44 beds total of which 18 are net new).
- Phase Two - Decommission and renovate existing ORs and support space for the relocation and expansion of the PACU and

staff support space. Forty-two (42) PACU positions will be constructed (14 net new) replacing and expanding the current facilities to accommodate the incremental ORs and strategic growth.

The ASP will include construction of two shell floors above the new ORs and ICUs that will be fit out at a later date to accommodate NSUH's future clinical use needs and modernization of their inpatient facilities.

NSUH is co-operated by Northwell Healthcare, Inc. whose sole corporate member is Northwell Health, Inc., and is a member of the Northwell Health Obligated Group.

OPCHSM Recommendation
Contingent Approval

Need Summary

Approval of the additional ORs and ICU beds and the construction of this new surgical pavilion will help North Shore University Hospital address existing and future growth. The facility expects this new Surgical Pavilion will address patients' needs and improve the quality of care for the growing number of patients with comorbidities.

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 \$338,562,858 includes the cost of the Article 28 and shell space construction. The project cost is broken down as follows: Article 28 space for \$280,522,858 and shell space for \$58,040,000. The project cost will be met via equity of \$86,092,285 and the issuance of tax-exempt bonds for a 30-year term at 6.5% interest for the remaining \$252,470,573. Citigroup Global Markets Inc. has provided a letter of interest to underwrite the bonds to be issued through the Dormitory Authority of the State of New York (DASNY) using tax-exempt financing.

Incremental Budget

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$51,334,421	\$73,800,798
Expenses	<u>\$73,704,086</u>	<u>\$91,683,476</u>
Net Income	(\$22,369,665)	(\$17,882,678)

Enterprise Incremental Budget

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,447,882,421	\$1,470,348,798
Expenses	<u>\$1,383,894,586</u>	<u>\$1,401,873,976</u>
Net Income	\$63,987,835	\$68,474,822

The CFO of Northwell Health, Inc. has submitted a letter attesting that Northwell Healthcare, Inc. is committed to support the project to serve the needs of the community and will provide financial support to absorb budgeted operating losses.

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 NYSECON. [PMU]
2. Submission of a bond resolution acceptable to the Department of Health. Included with the submission must be a sources and uses statement and a debt amortization schedule, for both new and refinanced debt. [BFA]
3. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in BAER Drawing Submission Guidelines DSG-1.0 Required Schematic Design (SD) and Design Development (DD) Drawings, and 2.18 LSC Chapter 18 Healthcare Facilities Public Use, for review and approval. This submission is to address the open life-safety concerns addressed in the DASNY review comment #284075, regarding the existing Level 2 renovations. [DASNY]
4. Submission of State Environmental Quality Review (SEQR) Summary of Findings pursuant to 6 NYCRR Part 617.4(b) (6), and 10NYCRR 97.12 [SEQ]

Approval conditional upon:

1. The project must be completed within six 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 July 15, 2018 and construction must be completed by February 18, 2023, 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 staff of the facility must be separate and distinct from the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. 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

February 8, 2018

Need Analysis

Background/Analysis

Beds	Current	Requested	Upon Approval
AIDS	30		30
Bone Marrow Transplant	4		4
Coronary Care	15		15
Intensive Care	79	18	97
Maternity	73		73
Medical / Surgical	486		486
Neonatal Continuing Care	5		5
Neonatal Intensive Care	32		32
Neonatal Intermediate Care	14		14
Total	738	18	756

Source: HFIS 2017

ED Visits			
	2014	2015	2016
Inpatient from ED	25,797	25,562	27,183

Source: SPARCS 2017

Length of Stay and Utilization	Beds	Length of Stay			Utilization		
		2014	2015	2016	2014	2015	2016
Med/Surg	614	5.8	6.0	6.0	91.3%	93.9%	96.7%
Obstetric	73	3.1	2.9	2.9	82.3%	76.5%	82.5%
High-Risk Neonates	51	15.6	15.6	14.9	45.6%	44.6%	46.8%

Source: SPARCS

North Shore University expects to treat sicker patients with multiple comorbidities and address their advanced care needs. North Shore University Hospital is strategically planning to provide an expanded array of state-of-the-art surgical procedures and post-operative care in a brand new state-of-the-art building that will increase the number of patients the hospital will be able to serve, including those who have a very high level of acuity. The expanded program and facility will see/include the following over the next 5 years:

- A proposed liver transplant center program (the subject of a separate CON) and an expanded vascular surgery program.
- Population growth that will result in additional trauma cases.
- The recruitment of orthopedic surgeons, including one specializing in joint replacement and one specializing in spinal surgery.
- The recruitment of cardiac surgeons. Additional cardiac surgery volume related to cases coming from Northwell Health's Peconic Bay Medical Center and an increase in the number of left ventricular assist devices (LVADs) is also anticipated.
- The growth of the Advanced Heart Failure program and the heart transplant program (recently given contingent approval by the DOH).
- The recruitment of additional neurosurgeons. Additional volume is also projected to be driven by the aging of the population in the service area.

Conclusion

North Shore University Hospital has been seeing a higher-level acuity of patients over the years and utilization of the ICU beds is expected to continue to grow.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

Staffing is expected to increase as a result of this construction/expansion project by 51.3 FTEs in year one of the completed project and by 54.5 FTEs by the third year of completion.

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

The total project cost for the Article 28 space and two-floor shell space is \$338,562,858, detailed as follows:

	<u>Article 28</u>	<u>Shell Space</u>	<u>Total</u>
New Construction	\$151,969,788	\$50,000,000	\$201,969,788
Renovation & Demolition	12,200,000	0	12,200,000
Temporary Utilities	50,000	0	50,000
Asbestos Abatement/ Removal	400,000	0	400,000
Design Contingency	10,559,677	2,950,000	13,509,677
Construction Contingency	6,686,207	2,000,000	8,686,207
Planning Consultant Fees	150,000	0	150,000
Architect/Engineering Fees	10,050,000	3,000,000	13,050,000
Construction Manager Fees	510,000	90,000	600,000
Other Fees	2,263,798	0	2,263,798
Movable Equipment	70,750,000	0	70,750,000
Financing Costs	13,396,963	0	16,324,617
Application Fee	2,000	0	2,000
Processing Fee	<u>1,534,425</u>	<u>0</u>	<u>1,550,527</u>
Total Project Cost	\$280,522,858	\$58,040,000	\$338,562,858

Project costs are based on a July 2018 construction start and a 55-month construction period.

The applicant's financing plan appears as follows:

Equity	\$86,092,285
Tax-Exempt Bonds (30-year term, 6.5% interest)	<u>\$252,470,573</u>
Total	<u>\$338,562,858</u>

Citigroup Global Markets Inc. has provided a letter of interest to underwrite the bonds to be issued through DASNY using tax-exempt financing. NSUH is a member of the Northwell Health Obligated Group.

Incremental Operating Budget

The applicant has submitted an incremental operating budget, in 2017 dollars, for the first and third years, summarized below:

	<u>Year One</u>	<u>Year Three</u>
<u>Inpatient Revenues</u>		
Commercial - MC	\$22,846,101	\$32,957,793
Medicare-FFS	12,895,469	18,420,589
Medicare - MC	6,876,612	9,740,318
Medicaid-FFS	2,157,388	3,130,854
Medicaid-MC	4,674,173	6,764,129
Private Pay	<u>1,884,678</u>	<u>2,787,115</u>
Total Revenue	\$51,334,421	\$73,800,798
<u>Expenses</u>		
Operating	\$37,222,492	\$56,154,369
Capital	<u>\$35,981,594</u>	<u>\$35,529,107</u>
Total Expenses	\$73,204,086	\$91,683,476
Gain/(Loss)	<u>(\$22,369,665)</u>	<u>(\$17,882,678)</u>
Total Discharges	1,065	1,569

Inpatient utilization by payor source for Year One and Year Three is as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial - MC	25.45%	25.44%
Medicare-FFS	37.00%	37.09%
Medicare - MC	16.80%	16.63%
Medicaid-FFS	5.45%	5.42%
Medicaid - MC	10.52%	10.45%
Private Pay	4.78%	4.97%

Utilization, revenue and expense assumptions are based on the historical experience of the applicant. The CFO of Northwell Health, Inc. has submitted a letter indicating that Northwell Healthcare, Inc. is committed to support the project to serve the needs of the community and will provide financial support to absorb the budgeted losses.

Capability and Feasibility

The total project cost is \$338,562,858 consisting of Article 28 space for \$280,522,858 and shell space construction for \$58,040,000. The project cost will be met with \$86,092,285 in accumulated funds and the remaining \$252,470,573 will be funded via a tax-exempt DASNY bond issuance with a 30-year term at 6.5% interest. Citigroup has provided a letter of interest to underwrite the bond financing. BFA Attachment A is Northwell Health's 2015-2016 Consolidated Certified Financial Statements and their internal financial statements as of September 30, 2017, which indicates the availability of sufficient funds for the equity contribution to meet the total project cost.

Working capital requirements are estimated at \$15,280,579 based on two months of third year expenses. Working capital will be funded from operations. BFA Attachment A indicates the availability of sufficient funds for the equity to meet working capital needs.

The submitted incremental budget indicates a loss in the first and third years of \$22,369,665 and \$17,882,678, respectively. The projected losses are due to the interest and depreciation expenses associated with this project. Without these expenses, the facility would show positive operating income. The CFO of Northwell Health, Inc. has provided a letter indicating that they will offset the losses via operations. NSUH's aim for the project is to replace existing outdated facilities, accommodate current surgical and critical care volume, and allow for future growth responsive to a patient population with increasingly complex healthcare needs and comorbidities. Revenues reflect the current reimbursement methodologies including cardiac, neurological and orthopedic surgeries. The budget is reasonable.

BFA Attachment A shows Northwell Health maintained average positive working capital and net asset positions, and achieved an average positive net operating income of \$345,039,000 for the 2015-2016 period and a positive net income of \$266,167,000 for the period ending September 30, 2017.

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 2015-2016 Consolidated Certified and 1/1/2017- 9/30/2017 Internal Financial Summary of Northwell Health, Inc.



**Project # 171149-C
North Shore University Hospital**

**Program: Hospital
Purpose: Construction**

**County: Nassau
Acknowledged: March 8, 2017**

Executive Summary

Description

North Shore University Hospital (NSUH), a 738-bed, voluntary not for profit, Article 28 hospital located at 300 Community Drive, Manhasset (Nassau County), seeks approval to certify Adult Liver Transplant Service, convert six medical/surgical beds to intensive care (ICU) beds, and construct a six-bed intensive care recovery space. The six-bed unit will be dedicated to transplant patients. The liver transplant service will be developed in partnership with Maimonides Medical Center, a 711-bed, tertiary care hospital located in Brooklyn that is a clinical affiliate of NSUH. The new ICU will be located on the 6th floor of the Monti Pavilion at NSUH. The total area of renovation is 5,755 square feet, which includes a 4,530 square foot patient sleeping suite. The existing NSUH operating suite will be utilized for transplant surgeries. Pre- and post-transplant medical assessments and treatments will take place in ambulatory space on the campus of NSUH. The proposed liver transplant program will house the inpatient transplantation service, as well as the pre- and post-hospitalization outpatient components. NSUH is a member of Northwell Health Inc. and is co-operated by Northwell Healthcare, Inc.

The applicant has experience as an organ transplant center. Effective October 5, 2007, NSUH was certified for Adult Kidney Transplant Service and has performed over 200 kidney transplants since then. The primary service area for the liver transplant center includes Queens, Nassau and Suffolk Counties. Because of NSUH's relationships with Maimonides Medical Center, Wyckoff Hospital and Staten Island University Hospital through

Northwell Health, their extended service area will include Kings (Brooklyn) and Richmond (Staten Island) Counties as well.

The liver transplant service will complement NSUH's established Center for Liver Disease program that currently provides pre- and post-liver transplant services to approximately 90 patients with or recovering from end-stage liver disease.

OPCHSM Recommendation
Contingent Approval

Need Summary

NYS currently has over 1100 people on our liver waitlists. There are 5.2 million people in Nassau, Suffolk and Queens counties and there is no liver transplant center on Long Island. In 2016 all centers performed more than 20 liver transplants. It appears all liver transplant centers, except Westchester Medical Center, will perform between 40 and 50 transplants in 2017.

Program Summary

The applicant has assured the Department their program will meet all the requirements of 10 NYCRR 405.30 and 405.31 as well as comply with the relevant CMS Conditions of Participation for Transplant Centers. State regulations require facilities with approved liver transplant programs to join and participated in the activities of the New York Center for Liver Transplantation.

Financial Summary

Project costs of \$8,604,623 will be met via equity of \$860,462 and the issuance of tax-exempt bonds for a 30-year term at 6.5% interest for the remaining \$7,744,161. Citigroup Global Markets Inc, has provided a letter of interest to underwrite the bonds to be issued through the Dormitory Authority of the State of New York (DASNY).

The CFO of Northwell Health, Inc. submitted a letter noting that Northwell is committed to financially support the program to serve the needs of the community and will absorb the budgeted losses.

The projected incremental and enterprise budgets are as follows:

Incremental Budget

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,183,700	\$5,845,400
Expenses	<u>6,515,600</u>	<u>9,969,500</u>
Net Income	(\$5,331,900)	(\$4,124,100)

Enterprise Incremental Budget

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,397,731,700	\$1,402,393,400
Expenses	<u>1,316,706,100</u>	<u>1,320,160,000</u>
Gain	\$81,025,600	\$82,233,400

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 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 evidence of UNOS approval to establish a liver transplant program, acceptable to the Department. [HSP]
3. Submission of evidence of the applicants liver transplant program becoming a member, in good standing, with the New York Center for Liver Transplantation (NYCLT). [HSP]
4. Submission of a signed commitment, acceptable to the Department, to provide services regardless of patient's ability to pay. [HSP]
5. Submission of documentation of acceptable progress toward implementation of the Northwell Health Comprehensive Plan to Increase Organ Donation (2017-2022). [HSP]
6. Submission of a bond resolution acceptable to the Department of Health. Included with the submission must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]
7. The submission of Design Development and State Hospital Code (SHC) Drawings, as described in BAER Drawing Submission Guidelines DSG-02, for review and 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. Construction must start on or before September 1, 2018 and construction must be completed by July 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 applicant must provide services regardless of ability to pay. [HSP]
4. The applicant's liver transplant program remaining a member, in good standing, with the NYCLT. [HSP]
5. The applicant committing and devoting resources to improving organ donation and NYS Donate Life Registry enrollments as a top priority in all system hospitals. This commitment must be evidenced by acceptable progress toward implementation of all aspects of the comprehensive Plan noted above to create a system-wide institutional culture which supports organ donation and NYS Donate Life Registry enrollment, that is continually evaluated and updated as needed. [HSP]
6. The applicant working with the Department, the NYS Transplant Council, Organ Procurement Organization(s), GNYHA, NYCLT, the New York Alliance for Donation, NYS transplant centers and other organizations to improve donation, organ donor management, organ preservation and transplant practices. [HSP]
7. 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. [DAS]

Council Action Date

February 8, 2018

Need Analysis

Background

The current need methodology for liver transplantation services, NYCRR Title 10 Part 709.7 was developed in the 1980's, just as transplantation services began to be offered as a surgical option for liver. The Department plans to discuss the need methodology with the Transplant Council at an upcoming meeting.

The current regulations call for consideration of the following criteria as well as other relevant factors:

- An incidence rate of 10 transplant candidates per 1 million population.
 - This would calculate to 190 persons on a waitlist.
 - NYS currently has over 1100 people on our liver waitlists.
- One liver transplant center per 5 million population.
 - This criterion would limit NYS to 4 centers.
 - There are currently 7 liver transplant centers in the state.
 - There are 5.2 million people in Nassau, Suffolk and Queens counties and there is no liver transplant center on Long Island.
- Minimum of 20 transplants per year within 2 years of operation.
 - In 2016 all centers performed more than 20 liver transplants.
 - The Northwell (NW) application projects performing 20 liver transplants by Year 2.
- No additional programs to be added until others performing 50 transplants per year.
 - All liver transplant centers except Westchester look as though they will perform between 40 and 50 transplants in 2017.

The last CON for a liver transplant program submitted and approved was from New York Presbyterian – New York Weill Cornell Center in 2009.

During the 30+ years since the NYS need methodology was established and remained in place unchanged, liver transplantation has been evolving. During this same period, the federal oversight system for organ transplantation has grown and matured. In 2007, the Centers for Medicare and Medicaid Services (CMS) developed organ transplant conditions of participation (CoPs) for each organ specific transplant service. In addition, the federal government contracted with the United Network for Organ Sharing (UNOS) to be the Organ Procurement and Transplantation Network (OPTN), requiring that all transplant programs obtain UNOS/OPTN approval and agree to follow UNOS/OPTN policies before initiating transplant services. The UNOS/OPTN national organ allocation policy requires heart, lung and liver transplant program perform a minimum of ten transplants annually. In 2014, the Department of Health revised and updated the organ transplantation programmatic regulations (Part 405.30 and 405.31) to be consistent with the federal standards of ten transplants annually.

New York State Governor Andrew M. Cuomo and New York State Commissioner of Health Howard A. Zucker have made increasing organ donation and transplant rates a public health priority. As a result, efforts are underway to create a statewide culture that supports and improves organ donation-related activities and practices across the continuum from increasing NYS Donate Life Registry enrollments to improved donor organ management, procurement, preservation and transplantation. In addition, with the assistance and guidance of the Transplant Council, the Department of Health plans to re-examine and update the need methodology for liver transplantation. Considering these factors, and that all existing New York State liver transplant programs are performing above the federal minimums, the Department focused its review on the programmatic aspects of the application, data on donation, transplant volumes, outcomes and wait lists, and consulted with an expert panel convened by the Chairperson of the NYS Transplant Council. This is described in detail in the Programmatic Analysis.

There are seven existing adult liver transplant programs in NYS. Five are in New York City, including New York Presbyterian Hospital – Columbia Presbyterian Center (NYP-Columbia), New York Presbyterian Hospital – New York Weill Cornell Center (NYP-Weill Cornell), Mount Sinai Hospital, Montefiore Medical Center – Henry & Lucy Moses Division, and NYU Langone Hospital. The other two existing programs are located at Westchester Medical Center in Valhalla and Strong Memorial Hospital in Rochester. NYP-Columbia, Montefiore, Mount Sinai and Westchester also perform pediatric liver transplants.

Data from the Organ Procurement and Transplant Network (OPTN) reported below identifies Mount Sinai and NYP-Columbia as consistently performing the most liver transplants per year and that all existing programs are performing more than the minimum 10 transplants per year required by CMS, UNOS and NYCRR Title 10 Part 405.30 regulations.

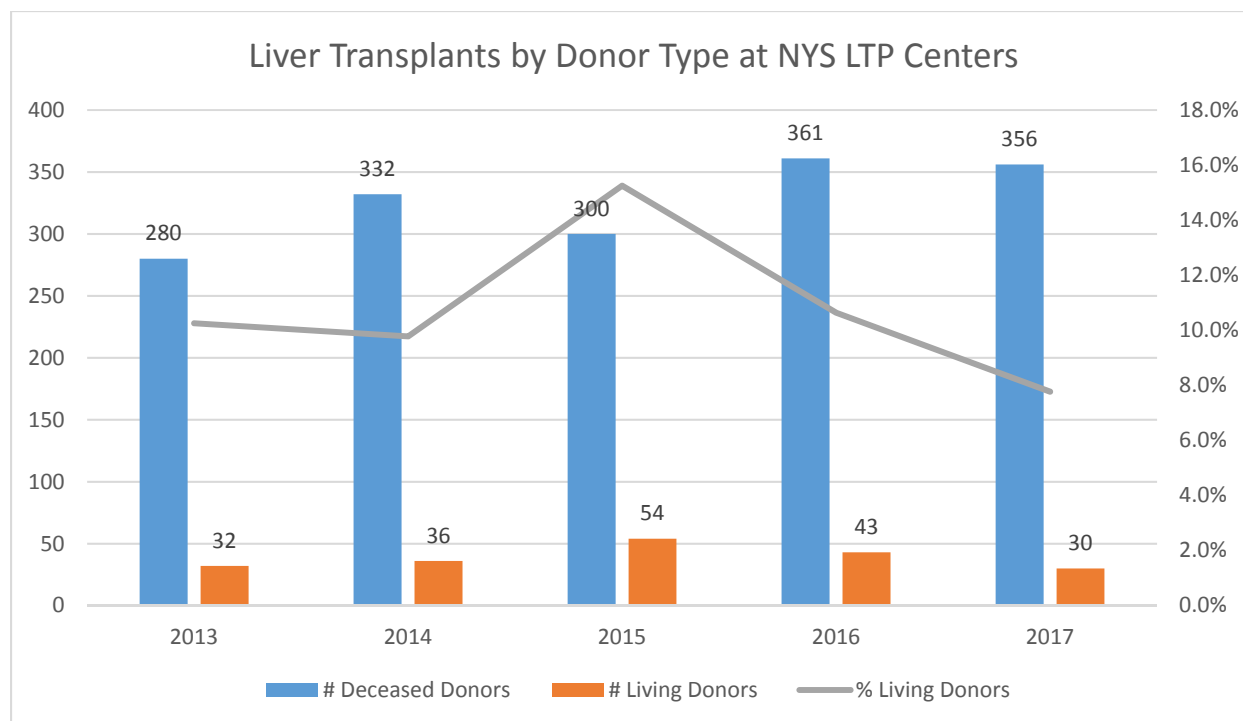
Liver Transplants per NYS Transplant Center 2014-2017- All Donor Types; UNOS/OPTN

	2010	2011	2012	2013	2014	2015	2016	2017**
NYP-Columbia	118	128	123	110	142	115	93	77
NYP-Weill Cornell *	4	9	10	1	0	12	29	44
Strong Memorial	43	44	32	24	22	29	36	41
Montefiore Medical Center	17	25	29	32	46	39	48	44
Mount Sinai Medical Center	104	110	108	93	107	117	133	120
NYU Langone Hospital	40	42	27	33	26	19	44	44
Westchester Medical Center	32	21	25	19	25	23	21	16
TOTAL	358	379	354	312	368	354	404	386

*Program restarted in 2015

**Jan.1, 2017-Jan. 3, 2018

Organ donation and transplant volumes at NY centers have fluctuated over the years. While liver transplants and organ donation have seen increases in recent years, this is only after a sustained period of downward trending which resulted from decreased organ donation and changes in patient and donor selection, such as the use of extended criteria donors.



Source: UNOS/OPTN

While deceased donors are the primary source of livers transplanted at New York centers, NYS transplants a higher percentage of living liver donations than the national average, 10.6% in NYS vs 4% nationally in 2016.

Liver Donations and Transplants in NYS

	2013	2014	2015	2016	2017
Liver Transplant in NYS—All Donor Types	312	368	354	404	386
Liver Donations in NYS—All Donor Types	297	326	323	358	343
Difference between Donations and Transplants in NYS	-15	-42	-31	-46	-43

Source: UNOS/OPTN

Transplant centers in NYS perform more liver transplants than the number of livers donated in the state. NYS liver transplant programs share these organs in accordance with UNOS allocation rules and with other centers within our region. NYS and a section of southwestern Vermont make up UNOS Region 9.

UNOS/OPTN liver allocation is an external factor that significantly impacts liver transplant in NYS. New York State has been disadvantaged by the current allocation policy. As noted above, the median Model End Stage Liver Disease score (MELD) for patients transplanted in NYS is higher than in adjoining geographic areas.

UNOS/OPTN policy requires livers to be shared locally (i.e., per the geographic boundaries of the local organ procurement agency, of which there are 4 in New York). New York State has had a variance from this policy to share donated livers state-wide since the 1990s. The UNOS/OPTN liver allocation policy was amended on December 4, 2017, although an implementation date has yet to be established. The new policy marginally broadens the geographic sharing region to 150 miles around the donor hospital for critically ill patients (MELD/PELD of 32). The Department supported the NY Center for Liver Transplantation’s efforts seeking implementation of a proposal, based on data analysis and modeling, to expand the size of the area in which livers would be shared to a 250 or 500 mile around the donor hospital, creating a more equitable allocation system. Unfortunately, these efforts were not successful and a proposal with a much more modest share area was approved. It is anticipated this policy change will result in a small net gain of livers coming across state lines to New York City, Westchester and Long Island. However, it is not clear when the policy will be implemented nor its ultimate impact. The Department has and will continue to be actively involved and supportive of the New York transplant community’s efforts over the past 18 years to address the geographic inequities in the UNOS/OPTN liver allocation system.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

The proposed Liver Transplant Center will serve the populations of Queens, Nassau and Suffolk Counties (primary service area) and Brooklyn and Staten Island (extended service area) with a combined population of approximately 8.4 million. The applicant describes the population in the primary service area of the proposed program as aging and culturally diverse with 22% of the population Hispanic, 19% Asian and 17% African American. In 2014, persons aged 50+ accounted for 81.6% of the transplant waitlist. Asian, Hispanic and African American populations are disproportionately impacted by hepatitis and chronic liver disease, compared to the Caucasian population. The burden of chronic liver disease combined with an aging population is projected to lead to an increase in need for treatment including liver transplantation in the primary and extended service areas.

The applicant reports that NSUH has a thriving Liver Disease program which from January through December 2016 saw over 3,500 unique patients. Currently, NSUH provides pre- and post-liver transplant services to approximately 90 patients with or recovering from end-stage liver disease. This number has been steadily increasing year after year.

On average for the years 2015 and 2016, approximately 170 patients with chronic liver disease were under the care of Northwell Health Physician Partners and approximately 60 were referred for transplant evaluation. NSUH hepatologists have extensive experience in caring for liver transplantation patients.

The applicant notes that according to 2015 SPARCS data, 95.6% of the patients residing in the five-county service area needing a liver transplant went to a Manhattan hospital for it. Mount Sinai Medical Center, NY Presbyterian-Columbia and NYU Medical Center were the top three destinations for adult liver transplants from this service area. There is no local option for these patients in the proposed NSUH/Northwell Liver Transplant Center Service Area.

The applicant asserts that the proposed liver transplant center will create improved local access for this patient population, within the setting that the patients and their families are already familiar with, will result in more highly coordinated care, as well as significantly reduced travel times, related expense and stress on the patient and their family members.

The applicant has indicated an intent to provide services regardless of ability to pay.

Program Review

In addition to materials provided as part of the CON application, staff review of the proposed project included review of a draft of components of the applicant's UNOS application for approval to initiate a liver transplant program; the facility's most recent kidney transplant CMS survey in 2015; the UNOS/Organ Procurement and Transplantation Network (UNOS/OPTN) and the Scientific Registry of Transplant Recipients (SRTR) data on liver donation volumes, living and deceased donor liver transplant volumes, transplant rates and outcomes, waitlist volume, mean time to transplant and median MELD/PELD at transplant, as well as the applicant's kidney transplant data.

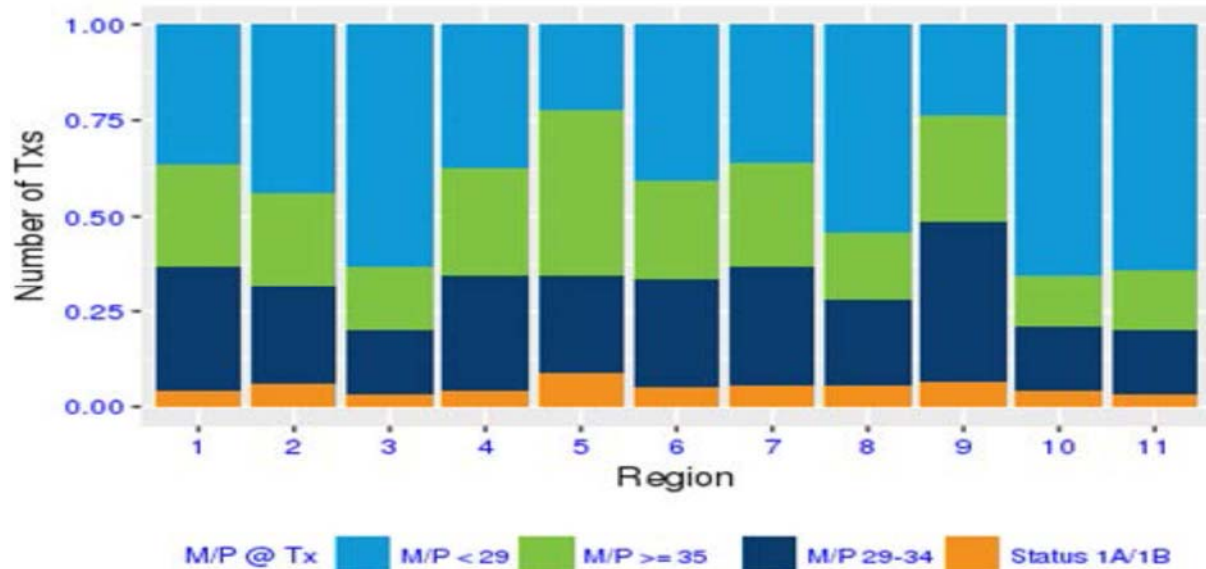
2016 Waitlist Mortality

		Obs/Exp Ctr.	Region 9	US
NYP-Columbia	Overall	6.9/10.9	14.6/12.5	15.2
	Adult	7.5	14.8	15.4
	Peds	0	6.2	8
NYP-Weill Cornell	Overall	8.8/10.6	14.6/12.5	15.2
	Adult	8.8	14.8	15.4
Strong Memorial	Overall	23.7/17.2	14.6/12.5	15.2
	Adult	23.7	14.8	15.4
Montefiore	Overall	6.1/12.5	14.6/12.5	15.2
	Adult	6.2	14.8	15.4
	Peds	0	6.2	8
Mount Sinai	Overall	25.3/18.2	14.6/12.5	15.2
	Adult	25.5	14.8	15.4
	Peds	19.8	6.2	8
NYU Langone	Overall	6.9/5.5	14.6/12.5	15.2
	Adult	6.9	14.8	15.4
Westchester MC	Overall	26.2/16.7	14.6/12.5	15.2
	Adult	26.5	14.8	15.4
	Peds	0	6.2	8

Source: Scientific Registry of Transplant Recipients (SRTR)

In the last comprehensive report publicly available, SRTR reports that the overall waitlist mortality, like waitlist time, decreased somewhat nationally between 2014 and 2015. Though there is variability in the mortality rate of patients with end stage liver disease on the waiting lists of the NYS liver transplant centers, the Region 9 waitlist mortality is recognized to be high compared to that of other Regions in the country.

2016 Median MELD/PELD Score at Transplant per Region



Regions 5, 9 and 1 have the greatest percentage of patients being transplanted with Model End-Stage Liver Disease/Pediatric End-stage Liver Disease (MELD/PELD) scores over 29. MELD/PELD scores are a prime indicator of severity of illness and need for liver transplant in adult and pediatric populations. The higher the score the more severe the illness. Region 1 includes Connecticut, eastern Vermont, Maine, Massachusetts, New Hampshire and Rhode Island. Region 5 is comprised of Arizona, California, Nevada, New Mexico and Utah.

The Scientific Registry of Transplant Recipients (SRTR) reports that during the period of one year (January 2016-December 2016) and 30 months (January 2014-June 2016) outcomes for liver transplants (graft failure and patient mortality) performed by all NY centers are as expected.

The applicant has in place all the clinical and supporting personnel required to obtain UNOS approval to establish a new liver transplant program. These include a surgical and medical director, additional liver transplant surgeons and hepatologists, transplant program administrators and coordinators, anesthesia, infectious disease, psychiatry, social work, pharmacy, finance, quality assurance/performance improvement and others needed to support delivery of services to this population.

Staffing is expected to increase by 25.3 FTEs in Year One of program startup and to a total of 40.2 FTEs by the third year of operation.

NSUH will apply to UNOS for approval to establish a liver transplant program upon approval of this application.

Organ Donations

The Northwell Health Network and its affiliate hospitals have undertaken several initiatives to increase donation rates and build a culture of donation. They received conditional approval for a heart transplant program in June 2017. One of the conditions included in the approval of their heart application was a five-year comprehensive plan to create a system wide culture which supports organ donation and enrollment in the NYS Donate Life Registry. Northwell submitted their plan to the Department in August 2017. The Department reviewed the plan and determined it to be comprehensive in nature and that it fulfills the condition required to move forward with program implementation. The plan expands use of a "Physician Donor Council" at each Northwell facility and, at the system level, accelerates implementation of an electronic monitoring system (eICU) that, based on triggers (vital signs, Glasgow Coma Scale, etc.), facilitates early identification of potential donors and referral to the local organ procurement agency. This system is currently active in 115 ICU beds and eight step-down beds in eight network hospitals. Further implementation in 2018 is planned for all critical care beds in Phelps Memorial and Northern Westchester Hospitals as well as all CCU beds at LIJ. In addition, this plan creates the framework for an institutional commitment to organ donation, including broad based staff education and outreach.

NSUH is an experienced organ transplant center. In August of 2007, the NYSDOH certified North Shore University Hospital for Adult Kidney Transplant. Since inception, the transplant center has performed over 200 transplants. The US Centers for Medicare and Medicaid Services (CMS) has recertified the Transplant Center after conducting a survey visit in August 2015. The kidney transplant program was recertified without comments from the CMS reviewers. The applicant reports that the CMS survey team praised the "quality structure" of the NSUH transplant program, recommending that it be presented as a "best practice" at an upcoming national conference.

Cohens Children's Hospital, an affiliate of North Shore within the Northwell Health system, was approved to open a pediatric kidney transplant program in 2016.

Expert Review Process

To further evaluate this application the Department convened a committee consisting of experts in the field to review the application, provide feedback as to its strengths and weaknesses and make recommendations to the PHHPC and the Commissioner of Health.

The review committee was chaired by the Chairperson of the NYS Transplant Council and included another member of the Transplant Council (TC); two liver transplant surgeons; a hepatologist; and a transplant program administrator from non-competing out-of-state programs and a chief operating officer from a large organ procurement organization, also out of state.

Review Committee members were provided with the following information for review and evaluation:

- components of the CON application;
- UNOS/OPTN and SRTR data for volumes, outcomes, transplant rates, MELD scores at transplant and other data regarding existing liver transplant centers in NYS and nationally;
- components of the applicants draft UNOS/OPTN application to initiate a liver transplant program;
- public comment received about the application.

Committee members were asked to review this program based on the merits of the application, supplemental material supplied by the Department and their individual knowledge and expertise. Each member was asked their thoughts and opinions and discussion followed.

Committee members acknowledged that:

- The application evidenced the quality of the proposed project, including overall preparedness of the applicant to put in place the required transplant associated clinical and administrative support;
- The capacity of the applicant to perform quality assurance and performance improvement program (QAPI), develop and implement policies and procedures consistent with standards of care and current medical evidence, and carry out other CMS/UNOS/DOH programmatic requirements;

- Northwell Center for Liver Diseases is currently serving the end-stage liver disease care needs of over 10,000 patients (est. 2012);
- The population size of the primary service area (Nassau, Suffolk and Queens counties) of 5.2 million people is significant, and that in 2016 one hundred twelve patients who reside in these counties received their transplant in centers located in New York City (primarily Manhattan). This number represents 27 percent of New Yorkers who received a liver transplant in 2016;
- There are significant challenges and hardships for patients and families associated with needing to travel to receive and/or support transplant related care;
- The existing liver transplant centers have the capacity to perform more transplants;
- The addition of a new program could dilute the existing pool of organ donors and organs available for transplant;
- There is no definitive evidence based minimum number of liver transplants that equate with quality. They noted that quality determinants are very complex and data indicates that it is not wise to attribute quality of liver transplant care and outcomes to just one variable, in this case volume. They did not think the "50" minimum in the Title 10 Section 709.7 was a valid number. They cited a 2014 publication "Association Between Liver Transplant Center Performance Evaluations and Transplant Volume", American Journal of Transplantation 2014;14:2097-2105 which demonstrated no measurable changes in outcomes associated with a reduction in transplant center volumes.
- Even if the number of livers available for transplantation in NY stays stagnant, the impact on the existing programs will be minimal, based on the applicant's volume projections (10 in year 1; 20 in year 2; and 30 in year 3.)
- The "Northwell Health Comprehensive Plan to Increase Organ Donation" (2017-2022) shows a high level of commitment and a specific plan of action to improve organ donation. The Committee thought this was a key aspect of the application and that Northwell is making good progress towards making organ donation a system top priority.
- Having a liver transplant program at a facility/network often increases the sensitivity of staff and leadership to the importance of and dedication to increasing donation and enhances momentum to accomplish the plan's goals.
- The actions taken to implement the eICU system to increase early identification of potential donors and notification of LiveOnNY, education of staff and efforts to increase organ donation within Northwell system and community; and
- The public had commented in support of and opposition to this application.

At the time this application was reviewed by the Review Committee, changes to the UNOS/OPTN liver allocation policy were still evolving. The committee generally saw the national policy as an external factor which if changed, may or may not bring more donated livers into New York. Thus, this was not a major factor in the Committee's review.

The committee raised no concerns about the applicant's volume projections.

In conclusion, the Committee saw value in adding this service to the care of end stage liver disease patients in the Center for Liver Diseases and especially for the 5.2 million people in the primary service area-which currently does not have a liver transplant program.

The Applicant has assured the Department that their program will meet all the requirements of 10 NYCRR 405.30 and 405.31 as well as comply with the relevant CMS Conditions of Participation for Transplant Centers. State regulations require facilities with approved liver transplant programs to join and participated in the activities of the New York Center for Liver Transplantation.

The Department's conditions for approval will reflect the Department's recognition that hospitals need to be proactive partners in our statewide efforts to improve organ donation and registry enrollment.

Compliance with Applicable Codes, Rules and Regulations

A successful Medicare Transplant re-approval survey was conducted for the NSUH adult kidney transplant programs August 11-12, 2015.

This facility currently 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.

Past enforcement of history of this facility and affiliated facilities includes:

- *North Shore University Hospital – Manhasset (PFI 0541)*
S&O dated 12/11/08 and \$18,000 fine for deficient practice related to post-operative care Based on post-operative care rendered to an elderly patient. Following surgery for an aneurysm, the patient developed multiple decubiti, fell out of bed resulting in a dislocated femur and developed renal failure. Follow-up care was delayed or inadequately administered.
- *Syosset Hospital (PFI 0550)*
S&O dated 7/8/10 and \$42,000 fine for deficient practice related to a tonsillectomy death Based on the findings of an investigation of the care to a child having an adenotonsillectomy. It was determined that the patient was improperly cleared for surgery and that despite multiple comorbidities was not kept for observation post-operatively. The patient expired after discharge.
- *Long Island Jewish Medical Center (PFI 1630)*
S&O dated 11/21/16 and \$4,000 fine for deficient practice related to Infection Control. The facility had 21 ORs running. It was observed that in twelve of the rooms a total of 24 staff were observed not following acceptable standards of practice for Infection Control practices in the Surgical Areas specifically in regard to the use of proper attire and exposure of hair during procedures. Examples are a plastic surgeon with approx. 2 "of hair exposed under cap while performing surgery, RN circulating nurse with front of hair showing under hat, resident with sideburns exposed while performing surgery, X Ray tech with full beard with beard cover hanging around his neck and facial hair showing around mask during procedure and in one OR with 4 surgeons all with hair exposed under hats.
- *Plainview Hospital (PFI 0552)*
S&O dated 3/6/17 and \$4,000 fine for deficient practice related to Infection Control The facility staff including physicians, podiatrists, radiologists, transporters, and physical therapist failed to use standard infection control practices. This included failure to wear PPE, wash hands, clean equipment, and follow isolation precautions for patients with identified infectious diseases (i.e. C Diff). These failures place patients at risk for exposure to infectious diseases.

Conclusion

Governor Cuomo and Commissioner Zucker have made organ and tissue donation and increasing NYS Donate Life Registry enrollments, a public health priority. Recent efforts have been focused on modernizing and expanding the NYS Donate Life Registry and calling upon the physician community to become engaged in the organ donation crisis. A logical next initiative is a call to action for all hospitals, including transplant centers, to support efforts to create a state-wide culture that supports and improves organ donation. This enhances the overall goal of creating a state-wide environment, which reaches across medical and social institutions and into communities, to improve organ donation.

The expansion of the population health model, and hospitals as entities willing and able to accept broad responsibilities for the health of the populations they serve, has coincided with changes that are critical to support organ donation promotion and procurement. Hospitals are vital partners in the organ donation process, from referring potential donors and managing their care, to maximize the number of organs available for transplantation, and to promoting organ donor registry enrollment efforts. These activities have become increasingly vital and necessary to address New York's shortage of organ donors.

Accordingly, the Department has determined that any application for organ transplant services must include a detailed plan of specific, measurable organ donation activities. These should be comprehensive and aim to improve actual recovery of transplantable donor organs, create an institutional culture that supports donation throughout the facility and in all arenas where patient care is delivered, and demonstrate a commitment to improving donor registry enrollment rates.

North Shore's application reflects this movement and contains an innovative program to improve the donor referral process; their eICU. Progress toward implementation of their plan is acceptable. The Department's contingencies and conditions for approval will reflect the Department's recognition that hospitals need to be proactive partners in statewide efforts to improve organ donation and registry enrollment.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Total Project Cost and Financing

The total project cost is \$8,604,623, detailed as follows:

Renovation & Demolition	\$4,338,458
Design Contingency	433,846
Construction Contingency	433,846
Planning Consultant Fees	130,154
Architect/Engineering Fees	347,077
Construction Manager Fees	216,923
Other Fees	216,923
Movable Equipment	1,488,510
Telecommunications	538,900
Financing Costs	410,932
Application Fee	2,000
Processing Fee	<u>47,056</u>
Total Project Cost	\$8,604,625

Project costs are based on a construction start date of September 1, 2018, and a ten-month construction period.

The applicant's financing plan appears as follows:

Equity	\$860,462
Tax-Exempt Bonds (30-year term, 6.5% interest)	<u>\$7,744,161</u>
Total	\$8,604,625

Citigroup Global Markets Inc, has provided a letter of interest to underwrite the bonds to be issued through DASNY. NSUH is a member of the Northwell Health Obligated Group.

Incremental Operating Budget

The applicant has submitted an incremental operating budget, in 2017 dollars, for the first and third years, summarized below:

	<u>Year One</u>	<u>Year Three</u>
<u>Inpatient Revenues</u>		
Commercial - MC	\$1,068,400	\$3,205,100
Medicare - MC	0	1,371,900
Medicaid - MC	<u>0</u>	<u>1,112,100</u>
Total Inpatient	\$1,068,400	\$5,689,100
<u>Outpatient Revenues</u>		
Commercial - MC	\$57,600	\$78,200
Medicare - MC	34,600	41,700
Medicaid - MC	<u>23,100</u>	<u>36,400</u>
Total Outpatient	\$115,300	\$156,300
 Total Revenue	 \$1,183,700	 \$5,845,400
<u>Expenses</u>		
Operating	\$5,426,600	\$8,894,400
Capital	<u>1,089,000</u>	<u>1,075,100</u>
Total Expenses	\$6,515,600	\$9,969,500
 Gain/(Loss)	 <u>(\$5,331,900)</u>	 <u>(\$4,124,100)</u>
 Total Discharges	 10	 30
Total Outpatient Visits	955	1,295

Inpatient utilization by payor source for year one and year three is as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial - MC	50%	50%
Medicare - MC	0%	27%
Medicaid - MC	20%	23%
Charity Care	30%	0%

Outpatient utilization by payor source for year one and year three is as follows:

	<u>Year One</u>	<u>Year Three</u>
Commercial - MC	50%	68%
Medicare - MC	30%	36%
Medicaid - MC	20%	32%

The following is noted with respect to the submitted budget:

- Transplant programs are not eligible to apply for CMS certification until after completion of ten transplants, and CMS certification is required as a Condition of Payment (COP) for Medicare and Medicaid reimbursement. Therefore, there are no inpatient Medicaid and Medicare revenues projected during the first year, though they anticipate providing care to Medicaid Managed Care patients (two discharges in Year One).
- The applicant expects that prior to CMS certification, they will be able to negotiate rates on a case by case basis in Year One for commercial pay patients.
- The CFO of Northwell Health, Inc. submitted a letter noting that Northwell is committed to financially support the program to serve the needs of the community and will absorb the budgeted losses related to the program.
- Utilization, revenue and expense assumptions are based on the experience of the applicant through their kidney transplant service program, and through research performed by the hospital on their service area.

Capability and Feasibility

The total project cost of \$8,604,625 will be met with \$860,462 in accumulated funds and the remaining \$7,744,161 will be funded via bond issuance with a 30-year term at 6.5% interest. Citigroup has provided a letter of interest to underwrite the bond financing. Working capital requirements are estimated at \$1,661,583 based on two months of third year expenses. Working capital will be funded from operations. BFA Attachment A is the Consolidated Statement of Financial Position and Consolidated Statement of Operations from Northwell Health's financial statements for 2016 (audited) and the nine months ending September 30, 2017 (unaudited), which indicates the availability of sufficient funds for the equity contribution to meet the total project cost and to meet working capital needs.

The submitted incremental budget indicates a loss in the first and third year of \$5,331,900 and \$4,124,100, respectively. This is primarily due to the facility's inability to bill for Medicare and Medicaid inpatient services until CMS certification of the Liver Transplant Program is received. After certification, the program still does not project to be profitable, but the applicant stated that as the service develops, the program's resources and the NSUH facilities will provide specialized treatment and management for all aspects of liver disease, in addition to comprehensive evaluations, pre-surgical care and post-surgical care for liver transplantations. As patient volumes grow, the financial results will significantly improve and are expected to generate a positive impact on net income. The applicant submitted a letter from the CFO of Northwell indicating that they will offset the program's projected losses via operations. Revenues reflect current reimbursement methodologies for liver transplant services. The budget appears reasonable.

BFA Attachment A shows the hospital maintained positive working capital and net asset positions, and achieved an average net operating income.

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 2016 (Audited) and September 30, 2017(Unaudited) Financial Summary of Northwell Health, Inc.



Project # 172208-C
Charles B. Wang Community Health Center, Inc.

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Construction **Acknowledged:** October 13, 2017

Executive Summary

Description

Charles B. Wang Community Health Center, Inc. (the Center), a voluntary not-for-profit, Article 28 diagnostic and treatment center located at 125 Walker Street, New York, requests approval to construct and certify an extension clinic to be located at 131-72 40th Road, Flushing (Queens County). The Center is operated by Chinatown Action for Progress Inc. and is certified as a Federally Qualified Health Center (FQHC) with four existing clinic locations, two in lower Manhattan and two in Flushing. This project includes the ground-up construction of a ten-story, 80,000 square-foot building that will include five clinical floors, two administrative floors with multi-functional space for health education and workshops, two levels of parking and utilities (cellar and ground floors) and one mechanical equipment floor. The majority of the Center's patients are low-income, uninsured or underinsured Asian Americans, with 88% of patients best served in a language other than English. The proposed plan will improve the Center's capacity to provide culturally competent and linguistically appropriate healthcare to the community's residents, expand services, improve the patient's experience, and increase efficiencies.

OPCHSM Recommendation
Contingent Approval

Need Summary

The Center will provide primary care and dental services. The number of projected visits for just the extension clinic is 25,000 for 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

Total project cost of \$65,000,000 will be met with \$23,774,000 equity (including land purchased), a \$10,000,000 gift from the Chinatown Health Clinic Foundation, \$6,226,000 in various grants, and \$25,000,000 in Tax-Exempt Bonds issued through Build NYC Resource Corporation. Flushing Bank has provided a letter of intent to underwrite the Bonds with terms as follows: 15-year fixed rate estimated at 3.50% as of November 22, 2017 (first 24 months interest only), with a 25-year amortization.

The projected budget is as follows:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$73,435,000	\$82,911,000
Expenses	<u>73,290,500</u>	<u>81,906,000</u>
Gain	\$144,500	\$1,005,000

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 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 forty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a bond resolution, acceptable to the Department. Included with the submitted bond resolution must be a Sources and Uses Statement and debt amortization schedule, for both new and refinanced debt. [BFA]
3. Submission of a final New York City Economic Development Corp Grant approval letter to be used as a source of financing, acceptable to the Department of Health. [BFA]
4. Submission of a final New York City Council Grant approval letter(s) to be used as a source of financing, acceptable to the Department of Health. [BFA]
5. Submission of a final New York City Office of Environmental Remediation to be used as a source of financing, acceptable to the Department of Health. [BFA]
6. Submission of a land appraisal by a member of the Members Appraisal Institute, acceptable to the Department of Health. [BFA]
7. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-03. [AER]
8. The submission of Engineering (MEP) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-03. [AER]
9. Submission of State Environmental Quality Review (SEQR) Summary of Findings pursuant to 6 NYCRR Part 617.4(b)(6). [SEQ]

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 May 1, 2018 and construction must be completed by May 1, 2020, 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

February 8, 2018

Need Analysis

Background and Analysis

The primary service area is Queens County, which has a population estimate of 2,333,054 for 2016. Approximately 26.7% of the population is Asian (Source- US Census, 2017). Charles B. Wang Community Health Centers primarily serves a low-income, under-insured Asian-American population that is linguistically and cultured isolated.

Charles B. Wang Community Health Center is certified as a federally Qualified Health Center (FQHC) and operates four safety-net diagnostic and treatment centers, two in lower Manhattan and two in Flushing, NY. Approval of this project will allow the FQHC to expand primary and preventive care including dental and mental health services to the community. The hours of operation for the center will be Monday through Saturday from 9 am until 5 pm.

The number of projected visits for just the proposed extension clinic is 25,000 for Year One and 50,000 for Year Three.

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

Conclusion

Approval of this project will provide improved access to primary care and dental services to the residents of Queens County, especially low-income Asian-Americans.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

The Charles B. Wang Community Health Center, Inc. reported that patient demand was beginning to outstretch capacity in the Flushing area, so the Center acquired property on 40th Road to construct the extension site with the goal of expanding the Center's primary and prevention services to meet the medical needs of those in the community who were underserved. Providing services that are bilingual and multicultural would improve access to healthcare for the growing Asian American community in Queens.

Staffing is expected to be 32.0 FTEs in the first year of operation and increase to 86.0 FTEs by the third year of operation.

Compliance with Applicable Codes, Rules and Regulations

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

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 new construction and movable equipment is estimated at \$65,000,000, broken down as follows:

Land Acquisition	\$15,125,000
New Construction	33,649,201
Renovation & Demolition	535,354
Site Development	2,059,074
Temporary Utilities	26,230
Asbestos Abatement or Removal	102,643
Design Contingency	274,600
Construction Contingency	1,680,887
Planning Consultant Fees	440,139
Architect/Engineering Fees	2,881,103
Construction Manager Fees	1,573,800
Other Fees	617,971
Movable Equipment	2,066,348
Telecommunications	175,216
Financing Costs	500,000
Interim Interest Expense	3,000,000
CON Application Fee	1,250
CON Processing Fee	<u>291,184</u>
Total Project Cost	\$65,000,000

The land value is stated at cost (\$15,000,000 purchase price plus \$125,000 in closing cost). The purchase price was review by the Board of Directors, real estate sub-committee, and in 2016 the Board passed a resolution to purchase real property for \$15,000,000. The applicant will have the land appraised, which is a requirement for funding and CON contingency satisfaction.

Project costs are based on a construction start date of May 1, 2018, with a 24-month construction period.

The applicant's financing plan appears as follows:

Equity - Accumulated Funds	\$8,649,000
Equity - Land	15,125,000
Gift - Chinatown Health Clinic Foundation (<i>confirmation letter provided</i>)	10,000,000
Tax-Exempt Bonds	25,000,000
Grants (<i>supporting documents provided</i>)	<u>6,226,000</u>
Total	\$65,000,000

Flushing Bank provided a letter of intent to underwrite the Bonds with terms as follows: 15-year fixed rate estimated at 3.50% as of November 22, 2017 (first 24 months interest only) with a 25-year amortization.

The total grant award is \$6,226,000 summarized as follows:

Grant - The Borough of Queens-Presidents Funding	\$3,100,000
Grant - New York City Economic Development Corp	1,000,000
Grant - New York City Council	1,370,000
Grant - New York City Council	676,000
Grant - New York City Office of Environmental Remediation	80,000

In addition to providing the \$10,000,000 gift, the Chinatown Health Clinic Foundation has pledged to support the Charles B. Wang Community Health Center, Inc. via a fund-raising campaign, and if needed will cover up to a \$10,000,000 operating cost shortfall.

Operating Budget

The applicant has submitted their current year (2016) and projected operating budgets for the first and third years, in 2018 dollars, summarized below:

Revenues	Current Year		First Year		Third Year	
	Per Vst.	Total	Per Vst.	Total	Per Vst.	Total
Medicaid FFS	\$185.84	\$30,662,126	\$189.48	\$40,981,286	\$194.21	\$47,628,037
Medicare FFS	\$143.78	1,079,063	\$143.30	1,415,481	\$146.09	1,624,965
Private Pay	\$164.55	8,415,562	\$165.40	11,047,206	\$164.23	12,548,143
Self-Pay (sliding)	\$48.53	1,003,740	\$51.02	1,324,083	\$53.53	1,553,978
NYS Uncompensated		2,311,009		2,541,944		2,773,877
HRSA 330 Funds		4,352,970		5,170,000		5,363,000
Donated Vaccines		2,057,565		2,201,565		2,344,565
State/Local Grants		<u>7,953,640</u>		<u>8,753,435</u>		<u>9,074,435</u>
Total Revenue		\$57,835,675		\$73,435,000		\$82,911,000
Expenses						
Operating	\$213.92	\$52,266,576	\$205.62	\$65,571,123	\$204.91	\$74,137,576
Capital	<u>\$19.17</u>	<u>4,682,604</u>	<u>\$24.21</u>	<u>7,719,377</u>	<u>\$29.50</u>	<u>7,768,424</u>
Total Expenses	\$233.09	\$56,949,180	\$229.83	\$73,290,500	\$233.77	\$81,906,000
Net Income		<u>\$886,495</u>		<u>\$144,500</u>		<u>\$1,005,000</u>
Patient Visits		244,324		318,900		361,800

The following is noted with respect to the submitted budget:

- The current year reflects the facility's 2016 revenue and expenses.
- Reimbursement rates are based on the FQHC's historical experience.
- Expenses are based upon historical experience adjusted for volume, investment and rising costs. Additionally, staffing levels are expected to increase by 32 and 86 FTEs in the first and third years, respectively. Nurses, Aides, Physicians, Dentists and Hygienists represents 59% of the increased FTEs in year one, and 64% of the increase in year three.
- Utilization by payor for the first and third years is summarized below:

Utilization	Current Year		First Year		Third Year	
	Visits	%	Visits	%	Visits	%
Medicaid-FFS	164,991	67.53%	216,282	67.82%	245,241	67.79%
Medicare-FFS	7,505	3.07%	9,878	3.10%	11,123	3.07%
Private Pay	51,144	20.93%	66,789	20.94%	76,408	21.12%
Charity (sliding)	<u>20,684</u>	<u>8.47%</u>	<u>25,951</u>	<u>8.14%</u>	<u>29,028</u>	<u>8.02%</u>
Total	244,324	100%	318,900	100%	361,800	100%

- Breakeven is projected at 99.8% and 98.8% of estimated First and Third Year visits

Capability and Feasibility

Total project cost of \$65,000,000 will be met with \$23,774,000 in equity (including land purchased), \$10,000,000 in Foundation gifts, \$6,226,000 in grants, and \$25,000,000 in Tax-Exempt Bonds issued through Build NYC Resource Corporation and underwritten by Flushing Bank at the above stated terms.

Working capital requirements are estimated at \$4,159,470 based on two months of third year incremental expenses. Working capital will be funded from operations. BFA Attachments A and B are Charles B. Wang Community Health Center, Inc.'s 2016 certified financial statements and their internal financials as of July 31, 2017, which indicates the availability of sufficient funds for the project. The applicant states they have ongoing fundraising and capital campaigns, which are expected to enhance cash flow and liquid resources.

The applicant projects the organization will generated a net profit of \$144,500 and \$1,005,000 in the first and third years, respectively. The budget appears reasonable.

Review of BFA Attachments A and B shows the facility had average working capital of \$19,881,991, average net assets of \$49,744,642, and generated net income of \$886,495 in 2016 and \$353,047 through July 31, 2017.

BFA Attachment C is Chinatown Health Clinic Foundation, Inc.'s 2016 certified financial statement and internal financials of June 30,2017, which shows the entity had net assets of \$18,809,149 and 19,060,184, respectively.

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 | Financial Summary, Charles B. Wang Community Health Center, Inc. 2016 certified financial statements. |
| BFA Attachment B | Financial Summary, Charles B. Wang Community Health Center, Inc. July 31, 2017 internal financial statements |
| BFA Attachment C | Financial Summary, Chinatown Health Clinic Foundation 2016 certified financial statements and June 30, 2017 internal statements |



Project # 171421-C
Seton Health at Schuyler Ridge Residential Healthcare

Program: Residential Health Care Facility
Purpose: Construction

County: Saratoga
Acknowledged: June 20, 2017

Executive Summary

Description

Seton Health at Schuyler Ridge Residential Healthcare (Seton Health) is a 120-bed, voluntary not-for-profit, Article 28 residential health care facility (RHCF) located at 1 Abele Boulevard, Clifton Park (Saratoga County). The facility also operates a 25-slot adult day health care program (ADHCP) onsite. Seton Health requests approval to construct a two-story addition containing 40 private rooms and to renovate and convert 40 beds from semi-private to private rooms. Upon completion of this project, the facility will change from 12 private and 108 semi-private beds to 92 private and 28 semi-private beds, with no net new beds.

St. Peter's Health Partners (SPHP) is the active parent and co-operator of Seton Health. The RHCF is a critical part of SPHP's long-range strategic plan for southern Saratoga County, which has the highest population growth rate in the region. The current facility was built in 1994 as a single-story building with three 40-bed nursing units. The layout reflects a 20-year-old design, with each unit consisting of four private rooms and 18 semi-private rooms. The applicant seeks to increase the number of private rooms and modernize the building to address the demand for private rooms.

The two-story addition will be constructed first to minimize disruptions to the residents, reduce the length of the project, and maintain occupancy levels. This approach will eliminate the loss of patient revenues, minimize the cost of moving, and help to reduce any negative effects the project may have on the RHCF's finances.

OPCHSM Recommendation

Contingent Approval

Need Summary

There will be no impact on certified beds or county bed need.

Program Summary

The expansion of Schuyler Ridge will improve the residential living environment. The addition of 40 single bedded rooms, and the conversion of 40 existing doubles to singles, will address the demands of residents for additional privacy

Financial Summary

The total project cost is \$19,964,743. However, due to the cost per bed exceeding applicable caps, the total reimbursable cost is \$17,050,931

Total project cost of \$19,964,743 will be met with \$7,176,545 in cash and an intercompany loan of \$12,788,198 over 25 years at 4.15% interest. The projected Enterprise Budget is as follows:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$16,361,243	\$17,382,298	\$18,056,373
Expenses	<u>13,054,856</u>	<u>15,421,887</u>	<u>15,441,454</u>
Net Income	\$3,306,387	\$1,960,411	\$2,614,919

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 intercompany loan commitment, acceptable to the Department of Health. [BFA]
3. Submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
4. Submission of a plan to 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]
5. Submission of a commitment, signed by the applicant, to submit annual reports to the DOH, for at least two years, demonstrating substantial progress with the implementation of the Medicaid Access 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]
6. Submission and programmatic review and approval of the final floor plans. [LTC]
7. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAER Drawing Submission Guidelines DSG-04. [AER]

Approval conditional upon:

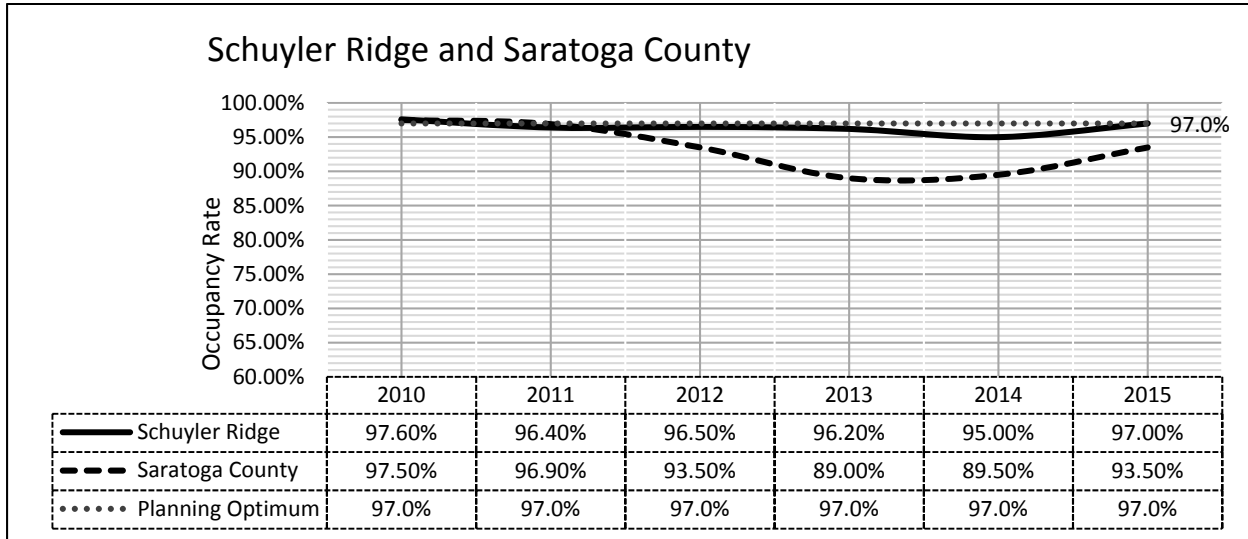
1. The project must be completed within three years from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]
2. Construction must start on or before May 1, 2018 and construction must be completed by May 1, 2020, 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. 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]
4. 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]
5. The operator shall submit a plan to maintain resident services and safety during construction to the Northeastern Regional Office, and must receive approval for such plan prior to the commencement of construction. [LTC]
6. 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

February 8, 2018

Need Analysis

Analysis



The overall occupancy for Saratoga County was 93.5% for 2015. Schuyler Ridge's utilization has been around the departments planning standard since 2010.

Population

In 2016, Saratoga County's overall population is 227,053 according to the US Census. In 2015, the 65 and older population made up 16.8 percent of the county's population which is 1.4 percent higher than the state average.

Medicaid Admissions

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.

Schuyler Ridge's Medicaid admissions for 2014 (9.5%) did not meet or exceed Saratoga counties threshold of 12.7%. In 2015 Schuyler Ridge had 2.1% Medicaid admissions, which did not meet or exceed the county's threshold of 13.1%.

The 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.

Conclusion

There will be no change in beds in Saratoga County. This is a construction project with renovation and conversion to single beds. There will be no impact on certified beds or county bed need.

Recommendation

From a need perspective, contingent approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Seton Health at Schuyler Ridge Residential Healthcare	Same
Address	1 Abele Boulevard Clifton Park, NY 12065	Same
RHCF Capacity	120	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Voluntary	Same
Class of Operator	Not for Profit	Same
Operator	Seton Health at Schuyler Ridge Residential Healthcare	Same

Program Review

Seton Health at Schuyler Ridge (Schuyler Ridge) is a 120-bed nursing home located in Clifton Park. Since the nursing home opened in 1995 there have been no projects to renovate and update the building. The circa 1990 building reflected the design elements of the time when it opened, and was recognized as a contemporary and appealing facility. Since then the nursing home landscape has changed, and the long-term care market in Saratoga County has become more competitive. Schuyler Ridge has responded by exploring improvements to the nursing home which would maintain its historical high occupancy. Schuyler Ridge has identified the lack of single bedded rooms as the most pressing issue with which to devote resources. The current proposal is to construct a two story 40 bed addition, and undertake a modest modernization to the existing building. The new wing will contain 40 single resident rooms, and 40 doubles in the existing nursing units will be converted to singles. The overall bed complement will remain 120 beds.

Physical Environment

The existing facility contains three 40 bed nursing units in a one story 59,000 square foot building. Currently Schuyler Ridge includes only four single-bedded rooms per unit. Upon completion of construction the nursing home will consist of 92 single-bedded rooms and 14 doubles. The new wing will contain 40 beds, all in single-bed configuration. The three existing nursing units will be reduced to a total of 80 beds, with the Fenimore nursing unit containing 28 beds, (six doubles and 16 singles), and the Ensign Point and Clifton Hills nursing units each containing 26 beds (four doubles and 18 singles).

The new wing will be "L shaped and consist of 32,500 square feet on two floors, each floor identical to the other. The design is the familiar linear configuration with a double loaded corridor. Resident rooms of varying sizes run along the outside of a central corridor, with the nursing station and office located in the middle of the "L". Each resident room includes a full bathroom with European shower. Entry into the unit is made from the West end, through the lobby/lounge adjacent to the elevator bank. The first floor lobby area exits to an outside activity area, and a connector on the South end of the lobby leads to the Fenimore nursing unit and the administration building and public entrance.

Each nursing unit situates the dining room, kitchen and pantry immediately adjacent to the nursing station, with the central bathing area across from the nursing office. A large activity/sun room is located on the North end of the unit. A living room with fireplace occupies the Southwest corner of the unit.

Construction in the existing building consists chiefly of reducing the double bedded resident rooms to singles and renovating the bathrooms to provide individual showers. The staff lockers and lounge in the Administration Building will also undergo minor renovation. The building systems will require some enhancement including the replacement of the emergency generator and the fire alarm system.

Compliance

Seton Health at Schuyler Ridge is currently in current compliance with all applicable codes, rules and regulations.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures	Staffing	Quintile
Seton Health at Schuyler Ridge Residential H C	*****	***	*****	****	4

Project Analysis and Conclusion

The expansion of Schuyler Ridge will improve the residential living environment. The addition of 40 single bedded rooms, and the conversion of 40 existing doubles to singles, will address the desires of newly admitted residents for additional privacy.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total cost of new construction, renovations and moveable equipment is projected to be \$19,964,743, broken down as follows:

New Construction	\$8,046,095
Renovation & Demolition	6,675,143
Design Contingency	1,174,992
Construction Contingency	772,687
Architect/Engineering Fees	1,413,851
Construction Manager Fees	335,245
Other Fees(Consultant)	148,041
Movable Equipment	690,747
Telecommunications	331,747
Interim Interest Expense	265,000
CON Application Fee	2,000
CON Processing Fee	<u>109,195</u>
Total Project Cost	<u>\$19,964,743</u>

Project costs are based on approximate 24-month construction period.

The Construction Cost Control Unit has determined that the cost per bed exceeds the applicable RHCF bed cap limitation for the facility's geographic region. Therefore, total allowable reimbursable project costs will be limited to \$17,050,931, as shown below:

Reimbursable Cost	\$16,939,736
CON Application Fee	2,000
CON Processing Fee	<u>109,195</u>
Total Reimbursable Project Cost	\$17,050,931

Per Department of Health policy, in addition to the 25% equity contribution on reimbursable project cost, the applicant is required to cover project costs in excess of total reimbursable project cost via equity.

The applicants financing plan for the project is as follows:

Accumulated Funds	\$7,176,545
Intercompany Loan (4.15% interest over 25-year term)	<u>12,788,198</u>
Total Funds	<u>\$19,964,743</u>

A letter of interest has been submitted from Trinity Health.

BFA Attachment D illustrates the bed cap and equity contribution calculations for this project.

Operating Budget

The applicant has provided an operating budget, in 2017 dollars, for the first and third years after construction. The budget is summarized below:

	<u>Current Year (2016)</u>		<u>Year One (2019)</u>		<u>Year Three (2021)</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>RHCF Revenues</u>						
Medicare	\$590.53	\$2,559,348	\$608.16	\$2,635,759	\$627.14	\$2,718,024
Medicaid	\$220.23	3,801,167	\$257.59	4,445,938	\$258.52	4,462,065
Commercial	\$658.35	486,518	\$697.08	515,139	\$752.32	555,961
Private Pay	\$413.81	8,423,909	\$427.65	8,705,738	\$453.47	9,231,292
All Other		<u>49,363</u>		<u>0</u>		<u>0</u>
Total RHCF Rev.		\$15,320,305		\$16,302,574		\$16,967,342
<u>ADHCP Revenues</u>						
Medicaid	\$120.62	\$184,670	\$143.38	\$219,515	\$144.08	\$220,584
Private Pay	\$89.41	131,340	\$92.09	\$135,281	\$97.70	143,519
All Other	\$100.90	<u>11,805</u>	\$100.90	<u>11,805</u>	\$100.90	<u>11,805</u>
Total ADHCP Rev.		\$327,815		\$366,601		\$375,908
Total Patient Rev.		\$15,648,120		\$16,669,175		\$17,343,250
Other Oper. Rev.		\$27,489		\$27,489		\$27,489
Non-Oper. Rev.		<u>\$685,634</u>		<u>\$685,634</u>		<u>\$685,634</u>
Total Revenues		\$16,361,243		\$17,382,298		\$18,056,373
<u>RHCF Expenses</u>						
Operating	\$281.54	\$12,019,092	\$299.17	\$12,771,528	\$300.23	\$12,816,810
Interest	\$7.26	309,988	\$19.56	835,078	\$18.96	809,363
Depreciation	<u>\$12.53</u>	<u>535,104</u>	<u>\$38.06</u>	<u>1,624,609</u>	<u>\$38.06</u>	<u>1,624,609</u>
Total RHCF Exp.	\$301.33	\$12,864,184	\$356.79	\$15,231,215	\$357.25	\$15,250,782
<u>ADHCP Expenses</u>						
Operating	\$60.05	\$187,162	\$60.05	\$187,162	\$60.05	\$187,162
Depreciation	<u>\$1.13</u>	<u>3,510</u>	<u>\$1.13</u>	<u>3,510</u>	<u>\$1.13</u>	<u>3,510</u>
Total ADHCP Exp.	\$61.18	\$190,672	\$61.18	\$190,672	\$61.18	\$190,672
Total Expenses		\$13,054,856		\$15,421,887		\$15,441,454
Net Income		<u>\$3,306,387</u>		<u>\$1,960,411</u>		<u>\$2,614,919</u>
Total Patient Days		42,690		42,690		42,690
Total ADHCP Visits		3,117		3,117		3,117
Occupancy		97.5%		97.5%		97.5%
Breakeven		81.84%		91.06%		87.61%

The following is noted with respect to the operating budget:

- The Medicaid rate includes assessment revenues for the current year and projected Years One and Three. The Medicaid capital component assumes reimbursement of interest and depreciation associated with total project cost. Since Article 28 reimbursable project cost is less than total project cost, the Medicaid revenue income would be reduced by \$45,270 to a total net income of \$1,915,141 and \$2,569,649 for Years One and Three, respectively.
- Medicare and private pay assume current rates of payment.
- Other Operating Revenue is assets released from restriction and miscellaneous revenues.
- Non-Operating Revenues are gains on investments.
- All other income includes grant monies for ADHCP services for patients not covered and the universal settlement for inpatient services.
- Occupancy is projected at the 2016 historical level of 97.5%.
- Inpatient utilization by payor source is projected as follows:

Medicare	10.15%
Medicaid	40.43%
Commercial	1.73%
Private Pay	47.69%
- Outpatient utilization by payor source is projected as follows:

Medicaid	49.12%
Private Pay	47.13%
All Other	3.75%
- Breakeven occupancy for inpatient in Year One is projected at 91.46%.

Capability and Feasibility

The total project cost is \$19,964,743. The facility will provide equity of \$7,176,545 from accumulated funds and remaining project cost of \$12,788,198 will be satisfied with an intercompany loan at 4.15% over a 25-year term. Trinity Health has submitted a letter of interest. As previously noted, SPHP is a member of Trinity Health. BFA Attachment D is Trinity Health's 2016 certified financials, which indicates the entity has sufficient funds to provide the intercompany loan.

BFA Attachment A is a financial summary of Seton Health at Schuyler Ridge, which shows the facility has maintained positive working capital and net asset balances during 2016 and as of June 30, 2017. The facility also generated operating income of \$2,620,753 during 2016, and \$2,322,245 as of June 30, 2017. The applicant reveals sufficient resources to meet project cost equity requirements.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Seton Health at Schuyler Ridge Residential Health Care – financial summary
BFA Attachment B	Seton Health at Schuyler Ridge Residential Health Care – 2016 certified financials.
BFA Attachment C	Organizational Chart for Trinity Health
BFA Attachment D	Bed Cap Calculation for Schuyler Ridge
BFA Attachment E	Trinity Health Certified Financials - 2016



**Project # 172304-E
Queens Boulevard ASC, LLC**

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Establishment **Acknowledged:** November 10, 2017

Executive Summary

Description

Queens Boulevard ASC, LLC, a proprietary Article 28 diagnostic and treatment center (D&TC) located at 95-25 Queens Boulevard, Rego Park (Queens County), requests approval for indefinite life status. The D&TC was approved under CON 111165 as a single-specialty freestanding ambulatory surgery center specializing in gastroenterology services for a five-year limited life, and began operations on March 25, 2013. The applicant is not proposing to add or change any services, or expand or renovate the facility.

Reports submitted by the applicant, the total number of procedures was 9,620 in Year One (2014-1st full year) and 10,615 in Year Three (2016). Actual charity care in Year Three (2016) was 0.35% and Medicaid was 45.88%.

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.

**OPCHSM Recommendation
Approval**

Financial Summary

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

Need Summary

Data submission by the applicant, as a contingency of CON 111165, has been completed. Based on CON 111165, Queens Boulevard ASC, LLC projected 7,135 procedures in Year One and 8,452 procedures in Year Three. Medicaid procedures were projected at 25.89 % and charity care was projected at 2.50%. Based on the Annual

	<u>Year One</u>
Revenues	\$9,084,745
Expenses	<u>5,356,030</u>
Net Income	\$3,728,715

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

February 8, 2018

Need Analysis

Analysis

The primary service area is Queens County. The table below provides information on projections and utilization by procedures for Year One (2014-1st full year) and Year Three (2016) based on CON 111165

CON 111165- Procedures	Year 1 (2014)		Year 3 (2016)	
	Projected	Actual	Projected	Actual
Queens Boulevard ASC				
Total	7,135	9,620	8,452	10,615

The table below provides Year Three utilization, projections and actual, by payor, for CON 111165, and projections for year one following approval.

Payor	CON 111165 Projected Year 3 (2016)	CON 111165 Actual Year 3 (2016)	CON 172304 Projections Year 1
Medicaid FFS	7.80%	0.58%	0.69%
Medicaid MC	18.09%	45.30%	45.84%
Medicare FFS	4.90%	5.08%	4.67%
Medicare MC	0.12%	12.73%	15.39%
Commercial MC	66.59%	28.39%	23.57%
Other (Exchange)	0.00%	5.42%	7.55%
Private Pay	0.00%	2.15%	1.84%
Charity Care	2.50%	0.35%	0.45%
Total	100.00%	100.00%	100.00%

The center currently has Medicaid Managed Care contracts with the following health plans: Affinity, BCBS Medicaid, Fidelis, Health Care Partners, HealthFirst, Metroplus, UHC Community Plan, Wellcare and others. The center's Medicaid utilization has been consistently above the original projection of 26% each year of its operation and is projected to be 46% going forward. The center actively participates in the NYC Community Care Program and has partnered with Queens Hospital to develop a formal Charity Care referral relationship. The center has also partnered with NYSDOH Cancer Services Program to provide services to the under-insured. The center has four (4) procedures rooms and is open Monday through Friday from 8 am until 6 pm, and extends its hours as necessary to accommodate patient needs.

Queens Boulevard ASC is committed to serving individuals needing care regardless of the source of payment or the ability to pay.

Conclusion

The 2015 report by the Ad Hoc Advisory Committee on Freestanding ASCs and Charity Care indicates that "single specialty freestanding ASCs offering endoscopy are likely to serve an older clientele, a large portion of whom are 65 or over and eligible for Medicare; hence, it may be reasonable to expect a lower volume of Medicaid and charity care cases from these providers than from ASCs offering more general surgical services." In this case, the Center is serving a substantial percentage of Medicaid cases, and although the center's charity care utilization is less than 2 percent, the center has been making reasonable and sustained efforts to provide service to the uninsured in its service area. Approval of the proposed project will provide for the continued access to gastroenterology ambulatory surgery services for the communities of Queens County.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

The Center is not proposing to add any services or make any changes to the building or operations. Staffing is expected to remain at 23.0 FTEs, and Azeem Khan, M.D. will continue to serve as the Center's Medical Director.

Compliance with Applicable Codes, Rules and Regulations

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

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

Operating Budget

The applicant has submitted their current year (2016) and the first and third year operating budgets, in 2018 dollars, as shown below:

	<u>Current Year</u> (2016)	<u>Year One</u> (2018)	<u>Year Three</u> (2020)
<u>Revenues</u>			
Medicaid FFS	\$8,350	\$10,438	\$10,438
Medicaid MC	3,197,157	3,211,401	3,211,401
Medicare FFS	244,288	246,813	246,813
Medicare MC	798,435	1,132,892	1,132,892
Commercial FFS	3,865,900	3,807,815	3,807,815
Other (Exchange)	269,861	638,786	638,786
Private Pay	<u>36,800</u>	<u>36,600</u>	<u>36,600</u>
Total Revenues	\$8,420,791	\$9,084,745	\$9,084,745
<u>Expenses</u>			
Operating	\$4,004,775	\$4,124,919	\$4,181,359
Capital	<u>1,174,671</u>	<u>1,174,671</u>	<u>1,174,671</u>
Total Expenses	\$5,179,446	\$5,299,590	\$5,356,030
Net Income	<u>\$3,241,345</u>	<u>\$3,785,155</u>	<u>\$3,728,715</u>

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Utilization (Procedures)	10,615	10,786	10,786
Cost Per Procedure	\$487.94	\$496.57	\$496.57

Utilization by payor source related to the submitted operating budget is as follows:

	<u>Current Year</u>		<u>Years One & Three</u>	
	<u>Procedures</u>	<u>%</u>	<u>Procedures</u>	<u>%</u>
Medicaid FFS	62	0.58%	74	0.69%
Medicaid MC	4,809	45.30%	4,944	45.84%
Medicare FFS	539	5.08%	504	4.67%
Medicare MC	1,351	12.73%	1,660	15.39%
Commercial FFS	3,014	28.39%	2,542	23.57%
Other (Exchange)	575	5.42%	814	7.55%
Private Pay	228	2.15%	199	1.84%
Charity Care	<u>37</u>	<u>0.35%</u>	<u>49</u>	<u>0.45%</u>
Total	10,615	100.00%	10,786	100.00%

Capability and Feasibility

There are no project costs associated with this application. The submitted budgets indicate net income of \$3,785,155 and \$3,728,715 in the first and third years. Revenues are based on current reimbursement methodologies. The budgets are reasonable.

BFA Attachment B is the 2015 and 2016 certified financial statements of Queens Boulevard ASC, LLC. The facility had an average positive working capital position and an average net asset position from 2015 through 2016. The entity achieved an average net income from operations of \$3,549,685 from 2015 through 2016.

BFA Attachment C is the internal financial statements of Queens Boulevard ASC, LLC as of October 31, 2017. The facility had a positive working capital position and a positive net asset position through October 31, 2017. The entity achieved a net income from operations of \$2,862,199 through October 31, 2017.

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	Current and original ownership of Queens Boulevard ASC, LLC
BFA Attachment B	Financial Summary – 2015 and 2016 certified financial statements of Queens Boulevard ASC, LLC
BFA Attachment C	Financial Summary – October 31, 2017 internal financial statements of Queens Boulevard ASC, LLC



**Project # 172325-E
Liberty Endoscopy Center**

Program: Diagnostic and Treatment Center **County:** New York
Purpose: Establishment **Acknowledged:** November 22, 2017

Executive Summary

Description

Liberty Endoscopy Center, LLC, a proprietary, single-specialty (gastroenterology), Article 28 freestanding ambulatory surgery center (FASC) located at 156 William Street, New York (New York County), requests approval to transfer 28% ownership interest to seven new members. The proposed new members are Deborah Chua, M.D., Veronika Dubrovskaya, M.D., Michael Glick, M.D., Valerie Antoine-Gustave, M.D., Neal Joseph, M.D., Martin Wolff, M.D., and Alex Ky, M.D., all of whom are currently performing procedures at the Center. The proposed new members have each executed a Membership Subscription Agreement, which includes his/her agreement to be bound by the Center's existing, approved Operating Agreement. The purchase price for each 4% membership interest is \$28,450 for a total purchase price of \$199,150 for the 28% ownership transfer.

Upon approval of this application, the FASC will continue to be owned and operated by Liberty Endoscopy Center, LLC, and the existing lease, which extends through 2030 with two five-year renewal options, will continue unchanged.

Since becoming operational January 13, 2017, the Center has provided gastroenterology services to residents of New York County. Highlights of the Center's achievements include collaboration with The Bowery Mission, one of the oldest not-for-profit

organizations in New York, to provide free colonoscopy services to the population served by The Bowery Mission, and agreement with Cumberland Diagnostic and Treatment Center, a NYC Health + Hospitals clinic, in collaboration with NYC Community Cares Project to provide uninsured patients with access to colonoscopy screenings.

**OPCHSM Recommendation
Approval**

Need Summary
There will be no Need recommendation of this application.

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

Financial Summary
There are no project costs associated with this application and no budgeted operating expenses or revenues. The proposed new members have each purchased a 4% membership interest for \$28,450 resulting in a total purchase price of \$199,150 for the 28% ownership transfer.

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

February 8, 2018

Program Analysis

Project Proposal

Liberty Endoscopy Center, LLC, an existing single specialty (gastroenterology) freestanding ambulatory surgery center, requests approval to transfer 28% ownership interest to seven (7) new members. There are no anticipated changes in operation resulting from this change in ownership.

The table below details the proposed change in ownership:

Member Name	Current Membership Interest	Proposed Membership Interest
Albert Harary, M.D.	2.25%	1.50%
Alexander Chun, M.D.	4.49%	2.99%
Anthony Borcich, M.D.	2.25%	1.50%
Carl McDougall, M.D.	4.49%	2.99%
David Robbins, M.D.	6.85%	4.57%
Eric Morgenstern, M.D.	4.49%	2.99%
Ilan Weisberg, M.D.	4.49%	2.99%
Jennifer Bonheur, M.D.	6.85%	4.57%
Jonathan Warman, M.D.	2.25%	1.50%
Julie Foont, M.D.	6.85%	4.57%
Jusuf Zlatanovic, M.D.	6.85%	4.57%
Makoto Iwahara, M.D.	4.49%	2.99%
Michael Krumholz, M.D.	4.49%	2.99%
Mylan Satchi, M.D.	1.12%	0.75%
Paulo Pacheco, M.D.	6.85%	4.57%
Peter Balocco, M.D.	4.49%	2.99%
Peter Kim, M.D.	10.0%	6.67%
Yasmin Metz, M.D.	0.45%	0.30%
Mount Sinai Ambulatory Ventures, Inc.	10.0%	10.00%
PE Healthcare Associates, LLC	6.00%	4.00%
<i>*Martin Wolf, M.D.</i>	----	4.00%
<i>*Michael Glick, M.D.</i>	----	4.00%
<i>*Neal Joseph, M.D.</i>	----	4.00%
<i>*Valerie Antoine-Gustave, M.D.</i>	----	4.00%
<i>*Veronika Dubrovskaya, M.D.</i>	----	4.00%
<i>*Deborah Chua, M.D.</i>	----	4.00%
<i>*Alex Ky, M.D.</i>	----	4.00%
TOTAL	100%	100%

***Members subject to a Character and Competence Review for this project**

Character and Competence

The new members are practicing board-certified gastroenterologists. Drs. Wolff, Glick, Joseph, Antoine-Gustave, Dubrovskaya, and Chua are employed by Gotham Medical Associates. Dr. Ky, a board-certified surgeon, is employed by Mount Sinai as an Associate Professor of Surgery, and she also serves as the Medical Director for Mount Sinai's downtown office.

Regarding the education and training of the new members: Dr. Wolff earned his medical degree from the New York University (NYU) School of Medicine and completed a gastroenterology fellowship at the NYU Medical Center. Additionally, he is a Clinical Assistant Professor of Medicine at NYU School of Medicine and an attending gastroenterologist at NYU Langone Medical Center and Mount Sinai Beth Israel. Dr. Glick graduated from NYU School of Medicine and completed a fellowship in gastroenterology at Memorial Sloan Kettering Cancer Center. Dr. Joseph earned his medical degree at George Washington

University and subsequently pursued specialty training in gastroenterology at Lenox Hill Hospital. Additionally, he has recently served as a Co-Medical Director for Liberty Endoscopy Center (located in Manhattan). Dr. Antoine-Gustave earned her medical degree from Johns Hopkins School of Medicine and completed a fellowship in gastroenterology at Brigham and Women's Hospital. Dr. Dubrovskaya earned her medical degree from Virginia Commonwealth University and completed a gastroenterology fellowship at St. Luke's-Roosevelt Hospital. Dr. Chua earned her medical degree from Temple University School of Medicine and completed fellowship training in gastroenterology at New York University. Dr. Ky earned her medical degree from the SUNY Stony Brook School of Medicine and she completed a Colorectal Surgery fellowship at Mount Sinai Hospital.

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted for the seven (7) incoming individual physician members 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.

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

Membership Subscription Agreement

The applicant has submitted the executed Membership Subscription Agreements for the proposed members, the terms of which are summarized below:

Date:	September 12, 2017
Description:	Purchase of 4% membership interest
Company:	Liberty Endoscopy Center, LLC
Purchasers:	Deborah Chua, M.D., Veronika Dubrovskaya, M.D., Michael Glick, M.D., Valerie Antoine-Gustave, M.D., Neal Joseph, M.D., Martin Wolff, M.D., and Alex Ky, M.D.
Purchase Price:	\$28,450 per proposed new member
Payment of Purchase Price:	\$2,845 deposit held in escrow; Equity via personal assets for the \$25,605 balance due at closing.

Payment of the balance due from each proposed new member will be paid via equity from their personal assets. BFA Attachment A presents a summary of the proposed members' net worth statements, which shows sufficient resources for the transactions.

Capability and Feasibility

There are no project costs associated with this application and no budgeted operating expenses or revenues.

BFA Attachment C is an internal financial summary of Liberty Endoscopy Center as of September 30, 2017, which shows the entity has maintained a positive working capital position and net equity position, but has experienced a net operating loss of \$303,993 due to startup costs.

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 Personal Net Worth Statements of Proposed Members of Liberty Endoscopy Center
- BFA Attachment B Current and Proposed Membership interest in Liberty Endoscopy Center, LLC
- BFA Attachment C Internal Financial Statements as of September 30, 2017



**Project # 172220-B
Dialysis at ECC, LLC**

Program: Diagnostic and Treatment Center **County:** Queens
Purpose: Establishment and Construction **Acknowledged:** October 10, 2017

Executive Summary

Description

Dialysis at ECC, LLC, a New York limited liability company, requests approval to establish and construct a 20-station, Article 28 Chronic Renal Dialysis Center to be located on the ground floor of the Elmhurst Care Center, a 240-bed residential health care facility (RHCF) located at 100-17 23rd Avenue, East Elmhurst (Queens County). The Center will provide dialysis services to residents of the RHCF and outpatient members of the surrounding community, and will also offer home hemodialysis training and support.

The proposed members of Dialysis at ECC, LLC are Tibor Klein with 66.66% ownership and Miriam Basch with 33.34% ownership. Tibor Klein has a 75% ownership interest in the RHCF.

The RHCF currently has eight residents requiring dialysis treatment who must be transported to an off-site facility three days per week. In addition, two residents of Elm York Home for Adults, a 262-bed adult care facility affiliated with Elmhurst Care Center through common ownership, and located next door to the RHCF, require dialysis and are transported off-site for treatment. Locating the proposed

dialysis center in the RHCF will eliminate the need for transportation and improve the quality of life for these residents.

**OPCHSM Recommendation
Contingent Approval**

Need Summary
A 20-station dialysis extension located at Elmhurst Care Center, will address the needs of nursing home residents requiring dialysis.

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 cost of \$2,092,046 will be met via equity from the proposed members' personal resources. The projected budget is as follows:

Revenues	\$5,990,553
Expenses	<u>4,724,231</u>
Net Income	\$1,266,322

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 building lease agreement, acceptable to the Department of Health. [BFA]
3. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
4. Submission of a photocopy of the applicant's executed Restated Articles of Organization, acceptable to the Department. [CSL]
5. Submission of a photocopy of the applicant's amended Operating Agreement, acceptable to the Department. [CSL]
6. Submission of the applicant's evidence of site control, 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 May 1, 2018 and construction must be completed by April 30, 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 staff of the facility must be separate and distinct from the staff of other entities; the signage must clearly denote the facility is separate and distinct from other entities; the clinical space must be used exclusively for the approved purpose; and the entrance must not disrupt any other entity's clinical program space. [HSP]
4. The applicant is required to submit Final Construction Documents, as described in BAER Drawing Submission Guidelines DSG-05, prior to the applicant's start of construction for record purposes. [AES]

Council Action Date

February 8, 2018

Need Analysis

Analysis

The primary service area for the new facility will be Queens County, which had a population estimate of 476,015 for 2016. The percentage of the population aged 65 and over was 14.2%. The nonwhite population percentage was 51.8%. 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	14.2%	15.4%
Nonwhite	51.8%	30.1%

Source: U.S. Census 2015

Capacity

The Department's methodology to estimate capacity for chronic dialysis stations is specified in Part 709.4 of Title 10 and 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.
- One hospital based station represents 499 treatments per year. This is based on the expectation that the hospital will operate 2.0 patient shifts per day at 6 days per week, which is 12 patients per week, per station [(2 x 6) x 52 weeks] equals 624 treatments per year. Assuming an 80% utilization rate based on the expected number of annual treatments (624), the number of annual treatments per hospital station is 499. One hospital based station can treat 3 patients per year.

Need Projections

New York State Chronic End Stage Renal Disease (Dialysis) Resources / Need Projected Through 2021							
County	Existing Resources	Approved Resources	Total Current Resources	Total Need 2021	Unmet Need 2021	County-wide Stations Under Review	Unmet Need After Approval
	a	b	c	d	e	f	g
			(a + b)		(d - c)		(e - f)
Queens	651	353	1004	1059	55	20	35
Approval of this CON Will Reduce the Stations Under Review (column f) by 20							
Column (a): Existing Resources: Stations in operation							
Column (b): Approved Resources: Stations approved but not yet operating							
Column (d): Total Need Calculated on 2016 Data and 95% Confidence Linear Regression Methodology							
Column (f): Submitted Projects Under Review							

The increasingly diverse racial demographics of Queens County, increasing obesity rates and the higher than expected rates of diabetes (and that disease's relationship to End Stage Renal Disease), as well as the aging of the population in general, indicate that there will be a continued need for dialysis services in the County in the future.

This project will extend the continuum of care of services that Elmhurst Care Center provides to its residents and others in need of dialysis services in Queens County. Elmhurst Care Center currently has eight RHCF residents who require dialysis treatment, which means that they must be transported to an off-site facility three days per week to receive treatment. In addition, there are currently two residents of Elm York Home for Adults, a 262-bed adult care facility (ACF) affiliated with Elmhurst Care Center through common ownership and located next door to the RHCF, who require dialysis treatment and are transported off-site for dialysis. Location of the proposed dialysis center on-site in the RHCF will enable the provision of services in one location for persons who require both long-term care (either RHCF or ACF) and treatment for End Stage Renal Disease, thereby improving quality of life for these residents. Location of a dialysis unit at the RHCF will also reduce Medicaid expenditures related to transportation of patients from the nursing home or adult care facility to an off-site treatment center.

As required by State and Federal regulations, the proposed Center will not only treat the residents of the RHCF who require chronic renal dialysis but will also be available to the general public.

Conclusion

Approval of this project will enhance the quality of life for the nursing home residents and adult care facility residents who require dialysis services, as well as meet a community need. After approval, there will still be a need of 35 net new stations.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

Proposed Operator	Dialysis at ECC, LLC
Site Address	100-17 23 rd Avenue East Elmhurst, NY (Queens County)
Approved Services	Chronic Renal Dialysis (20 Stations)
Shifts/Hours/Schedule	Two shifts per day, six days per week Monday through Saturday, 6 am to 7 pm (with the projection of going to three shifts per day in the second year of operations.)
Staffing (1st Year / 3rd Year)	13.6 FTEs / 36.75 FTEs
Medical Director(s)	Robert Krinsky, M.D.
Emergency, In-Patient and Backup Support Services Agreement and Distance	Expected to be provided by provided by Long Island Jewish Forest Hills 4.7 miles / 16 minutes

Character and Competence

The members of Dialysis at ECC, LLC are:

<u>Name</u>	<u>Membership</u>
Tibor Klein	66.66%
Miriam Basch	33.34%

The proposed members of Dialysis at ECC, LLC are owners/members of health care facilities and have experience in addressing the needs of nursing home residents and the elderly. Mr. Klein is a member of Elmhurst Care Center, Inc., the operator of Elmhurst Care Center. In addition to Ms. Basch's ownership interest in a residential health care facility in Queens, she also is employed as a part-time clerk in four nursing and rehab centers located in Brooklyn.

Disclosure information was submitted and reviewed for the proposed Medical Director. Robert Krinsky, M.D. is a New York State licensed practicing clinical physician who completed a two-year fellowship in Nephrology at Maimonides Medical Center and is board-certified in Internal Medicine with sub-certification in Nephrology.

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.

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 a draft lease rental arrangement for the site that they will occupy, which is summarized below:

Premises:	10,100 square feet located at 100-17 23 rd Avenue, East Elmhurst, New York.
Lessor:	Yorkshire Realty, Inc.
Lessee:	Dialysis at ECC, LLC
Term:	10 years
Rental:	\$225,500 annually (\$22.33 per sq.ft.) with 3% annual increase.
Provisions:	The lessee shall be responsible for maintenance, utilities and real estate taxes.

The lease will be a non-arm's length lease arrangement since Tibor Klein has ownership interest in the landlord entity. The applicant has submitted letters from two New York State Real Estate Brokers attesting to the reasonableness of the per square foot rental.

Total Project Cost and Financing

Total project cost, which is for renovations and the acquisition of moveable equipment, is estimated at \$2,092,046, further broken down as follows:

Renovation and Demolition	\$1,058,148
Design Contingency	105,815
Construction Contingency	105,815
Architect/Engineering Fees	120,931
Oher Fees (Consultant)	25,500
Moveable Equipment	662,405
CON Fee	2,000
Additional Processing Fee	<u>11,432</u>
Total Project Cost	\$2,092,046

Project costs are based on a construction start date of May 1, 2018, and a 12-month construction period.

The proposed members will provide equity to meet the total project cost. BFA Attachment A, the net worth of the proposed members, indicates sufficient equity exists to satisfy project costs.

Operating Budget

The applicant has submitted an operating budget, in 2017 dollars, during the first and third years of operation, summarized below:

	<u>Year One</u>		<u>Year Three</u>	
	<u>Per Trmt.</u>	<u>Total</u>	<u>Per Trmt.</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid FFS	\$275.46	\$196,957	\$275.46	\$576,823
Medicaid MC	\$350.44	\$125,107	\$260.33	\$272,563
Medicare FFS	\$285.00	\$1,630,200	\$285.00	\$4,774,320
Commercial FFS	\$260.33	<u>\$92,937</u>	\$350.38	<u>\$366,847</u>
Total Revenues		\$2,045,201		\$5,990,553
<u>Expenses</u>				
Operating	\$224.34	\$1,603,806	\$206.25	\$4,318,887
Capital	<u>54.78</u>	<u>391,611</u>	<u>19.36</u>	<u>405,344</u>
Total Expenses	\$279.12	\$1,995,417	\$225.61	\$4,724,231
Net Income		\$49,784		\$1,266,322
Utilization (Treatments)		7,149		20,940
Cost Per Treatment		\$279.12		\$225.61

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

	<u>Year One</u>	<u>Year Three</u>
Medicaid FFS	10.00%	10.00%
Medicaid MC	4.99%	5.00%
Medicare FFS	80.01%	80.00%
Commercial FFS	5.00%	5.00%

The reimbursement rates and revenue assumptions are based on the experience of other dialysis centers in nursing homes. Expense assumptions are based on the typical expenses for chronic renal dialysis centers in nursing homes.

Capability and Feasibility

Total project cost of \$2,092,046 will be met via equity from the personal resources of the proposed members.

Working capital requirements are estimated at \$787,372, which is equivalent to two months of third year expenses. The applicant will fund the working capital requirement via equity from the proposed members' personal resources. BFA Attachment A is the personal net worth statements of the proposed members of Dialysis at ECC, LLC, which indicates the availability of sufficient funds for the equity contribution. BFA Attachment C is the pro forma balance sheet of Dialysis at ECC, LLC, which indicates a positive members equity position of \$2,879,418 as of the first day of operation.

The submitted budget indicates a net income of \$47,784 and \$1,266,322 during the first and third years, respectively. Revenues are based on the current reimbursement methodologies for dialysis services. The submitted budget appears reasonable.

BFA Attachment B is the 2015 and 2016 certified financial statements of Elmhurst Care Center. As shown, the entity had a positive working capital position, positive shareholders' equity and generated an average net income of \$4,070,533 for the period.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

- BFA Attachment A- Net Worth Statement of Proposed Members
- BFA Attachment B- Financial Summary: 2015 and 2016 certified financial statements of Elmhurst Care Center
- BFA Attachment C- Pro Forma Balance Sheet



**Project # 161122-E
Comprehensive Rehabilitation and Nursing Center at
Williamsville**

Program: Residential Health Care Facility
Purpose: Establishment

County: Erie
Acknowledged: March 14, 2016

Executive Summary

Description

Comprehensive Rehabilitation and Nursing Center at Williamsville is a 142-bed, proprietary, Article 28 residential health care facility (RHCF) located at 147 Reist Street, Williamsville (Erie County). Two of the current members, Ephram Lahasky and Joshua Farkovitz, request approval to transfer 36% of their ownership interest in the facility (18% each) to two other current members and three new members. Upon approval, the facility will have seven members. There will be no change in beds or services as a result of the transfer of ownership interest.

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

<u>Members</u>	<u>Current</u>	<u>Proposed</u>
Ephram Lahasky	37.0%	19.0%
Joshua Farkovits	37.0%	19.0%
David Gast	16.0%	24.5%
Samuel Halper	10.0%	13.5%
Debbie Korngut	0%	11.5%
Teresa Lichtschein	0%	7.5%
Jeffrey Arem	0%	5.0%

OPCHSM Recommendation
Contingent Approval

Need Summary

There will be no Need recommendation on this application.

Program Summary

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

Financial Summary

There are no project costs associated with this application. The total purchase price for the 36% transfer of ownership is \$6 and has been paid in full. No budget analysis is necessary as this is a 36% transfer of ownership interest, and the four current members are remaining in the ownership structure with majority interest. The RHCF is not proposing to change its business model, which has historically been profitable, and the facility has no outstanding Medicaid liabilities.

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 applicant's Certificate of Amendment of the Amended and Restated Articles of Organization, acceptable to the Department. [CSL]
2. Submission of a photocopy of the applicants amended and executed Assignment of Leases and Rents, acceptable to the Department. [CSL]
3. Submission of a photocopy of the applicant's amended and executed Operating 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]

Council Action Date

February 8, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Comprehensive Rehabilitation and Nursing Center at Williamsville	Comprehensive Rehabilitation and Nursing Center at Williamsville
Address	147 Reist Street Williamsville, NY. 14221	Same
RHCF Capacity	142	Same
ADHC Program Capacity	N/A	N/A
Type of Operator	Proprietary	Proprietary
Class of Operator	Limited Liability Company	Limited Liability Company
Operator	Comprehensive at Williamsville, LLC	Comprehensive at Williamsville, LLC
	<u>Members</u> David Gast 16.0% Ephram Lahasky 37.0% Joshua Farkovits 37.0% Samuel Halper 10.0%	<u>Members</u> David Gast 24.5% Ephram Lahasky 19.0% Joshua Farkovits 19.0% Samuel Halper 13.5% Debbie Korngut 11.5% Terry Lichtstein 7.5% Jeff Arem 5.0%

Character and Competence - Background

Facilities Reviewed

Meadow Park Rehabilitation and Health Care Center	09/2007 to present
<u>New Jersey Nursing Home</u> Riverside Nursing and Rehabilitation Center	04/2012 to present
<u>Pennsylvania Nursing Home</u> Brighton Rehabilitation and Wellness Center	11/2014 to present
<u>Minnesota Nursing Homes</u> Centennial Gardens for Nursing and Rehab Hillcrest Care and Rehabilitation Center Laurels Peak Care and Rehabilitation Center Mala Strana Care and Rehabilitation Center Meeker Manor Rehabilitation Center LLC Oaklawn Care and Rehabilitation Center The Estates at Bloomington The Estates at Chateau LLC The Estates at Delano LLC The Estates at Excelsior LL The Estates at Fridley LLC The Estates at Greely LLC The Estates at Linden LLC The Estates at Lynnhurst LLC The Estates at Roseville LLC The Estates at Rush City LLC The Estates at Twin Rivers LLC The Gardens at Cannon Falls The North Shore Estates LLC Valley View Manor	03/2016 to present 07/2015 to present 07/2015 to present 07/2015 to present 07/2016 to present 07/2015 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2017 to present 03/2016 to present 07/2016 to present 09/2015 to present

Minnesota Assisted Living Facilities

Crystal Seasons Assisted Living	07/2015 to present
Laurels Edge Assisted Living	07/2015 to present
Mala Strana Assisted Living	07/2015 to present
The Green Prairie Rehab Center	07/2016 to present

Individual Background Review

Teresa Lichtschein is currently employed as a financial tracker for the Gissim Corporation. Ms. Lichtschein has a high school diploma from Esther Schoenfeld High School and discloses the following nursing home ownerships:

Meadow Park Rehabilitation and Health Care Center (7.5%)	12/1999 to present
Riverside Nursing and Rehabilitation Center (NJ) (7.6%)	04/2012 to present
Friendship Ridge Nursing Home (2%)	11/2014 to present

Debbie Korngut has no employment history and discloses no health facility ownerships.

Jeffrey Arem lists his employment as the Director of Sales for Alamo Mobile X-Ray and EKG Services located in Brooklyn, New York. He is also the sales and marketing representative for Pharmscript LLC, a long term care pharmacy. Mr. Arem has a high school diploma from Yeshiva Tiferas Torah and discloses the following ownership interests in health care facilities:

Centennial Gardens for Nursing and Rehabilitation (MN) 5%	03/2016 to present
Crystal Seasons Assisted Living (MN) (12.5%)	07/2015 to present
Hillcrest Care and Rehabilitation Center (MN) (12.5%)	07/2015 to present
Laurels Peak Care and Rehabilitation Center (MN) (12.5%)	07/2015 to present
Mala Strana Care and Rehabilitation Center (MN) (12.5%)	07/2015 to present
Oaklawn Care and Rehabilitation Center (MN) (12.5%)	07/2015 to present
The Gardens at Cannon Falls 5%	03/2016 to present
Valley View Manor (MN) (12.5%)	09/2015 to present
Laurels Edge Assisted Living (MN) (12.5%)	07/2015 to present
Mala Strana Assisted Living (MN) (12.5%)	07/2015 to present
Meeker Manor Rehabilitation Center LLC (MN) (14.25%)	07/2016 to present
The Estates at Bloomington (MN) (6%)	03/2017 to present
The Estates at Chateau LLC (MN) (6%)	03/2017 to present
The Estates at Delano LLC (MN) (6%)	03/2017 to present
The Estates at Excelsior LLC (MN) (6%)	03/2017 to present
The Estates at Fridley LLC (MN) (6%)	03/2017 to present
The Estates at Greely LLC (MN) (6%)	03/2017 to present
The Estates at Linden LLC (MN) (6%)	03/2017 to present
The Estates at Lynnhurst LLC (MN) (6%)	03/2017 to present
The Estates at Roseville LLC (MN) (6%)	03/2017 to present
The Estates at Rush City LLC (MN) (6%)	03/2017 to present
The Estates at Twin Rivers LLC (MN) (6%)	03/2017 to present
The Green Prairie Rehab Center (MN) (14.25%)	07/2016 to present
The North Shore Estates LLC (MN) (14.25%)	07/2016 to present
The Gardens at Cannon Falls MN) (5%)	03/2016 to present

Character and Competence - Analysis

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

A review of Meadow Park Rehabilitation and Health Care Center for the period identified above reveals the following:

- The facility was fined \$4,000 pursuant to a Stipulation and Order NH-17-08 issued January 31, 2017 for surveillance findings on October 19, 2016. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care Accident Free Environment and 10 NYCRR 415.26 Administration.
- The facility incurred a Civil Monetary Penalty of \$45,366.75 for the immediate jeopardy associated with the survey.

A review of operations for Riverside Nursing Home (NJ) for the period identified above reveals the following:

- A fine will be imposed for a July 2016 survey for the following: air temperature too high. The fine has not yet been processed by CMS.
- A Civil Monetary Penalty of \$173,110 has been recommended for a September 2, 2016 survey for the following: excessive hot water temperature, failure to report abuse incident, disabled resident not protected from abuse. The fine has not yet been processed by CMS.

A review of operations for Brighton Rehabilitation and Wellness Center a/k/a Friendship Ridge for the time period indicated above indicates there were no enforcements.

A review of the affidavit submitted for Centennial Gardens for Nursing and Rehab indicates the nursing home incurred a \$8,125 Civil Monetary Penalty for deficiency F323 from the December 22, 2016 survey.

A review of the affidavit submitted for The Gardens at Cannon Falls indicates the nursing home incurred a \$29,393 Civil Monetary Penalty for deficiency F309 from the December 1, 2016 survey.

A review of the affidavits submitted by the applicant for Hillcrest Care and Rehabilitation Center, Laurels Peak Care and Rehabilitation Center, Mala Strana Care and Rehabilitation Center, Meeker Manor Rehabilitation Center LLC, Oaklawn Care and Rehabilitation Center, The Estates at Bloomington, The Estates at Chateau, The Estates at Delano, The Estates at Excelsior, The Estates at Fridley, The Estates at Greely, The Estates at Linden, The Estates at Lynnhurst, The Estates at Roseville, The Estates at Rush City, The Estates at Twin Rivers, The Estates at Cannon Falls, The North Shore Estates, Valley View Manor, Crystal Seasons Assisted Living, Laurels Edge Assisted Living, and Mala Strang Assisted Living indicates there were no Civil Monetary Penalties imposed.

Quality Review

Provider Name	Overall	Health Inspection	Quality Measures	Staffing	Quintile
Meadow Park Rehab Health Center LLC	*	*	****	*	5

NJ

Riverside Nursing and Rehabilitation Center	**	*	****	****
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PA

Brighton Rehabilitation and Wellness Center	*	*	***	*
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MN

Hillcrest Care & Rehabilitation Center	*****	****	*****	*****
Laurels Peak Care & Rehabilitation Center	***	**	**	****
Mala Strana Care & Rehabilitation Center	****	***	***	****
Oaklawn Care & Rehabilitation Center	****	***	*****	**
Valley View Manor HCC	*****	***	*****	****
The North Shore Estates LLC	*****	****	*****	****
The Green Prairie Rehabilitation Center	****	****	****	***

*Nursing home ownerships of one year or less are not included.

The applicant has provided analyses regarding the low rating for Meadow Park Rehab Health Center LLC (Meadow Park) and Brighton Rehabilitation and Wellness Center (Brighton). Regarding Meadow Park, the applicants notes the low overall rating stems from the Immediate Jeopardy declared in 2016. Meadow Park has a quality improvement program in place and conducts quarterly Quality Assurance meetings to identify potential issues and other areas of concern to enhance the quality of services and programs. Meadow Park has hired a clinical professional to facilitate and oversee medical aspects and to improve quality measures including decreasing hospitalization. The applicant attributes the low rating for Brighton on poor surveys in 2016.

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 identified as new members. No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Purchase Option Agreements

Executed purchase option agreements between each buyer and seller for the partial transfer of ownership have been submitted, as detailed below.

Execution Dates:	March 31, 2015 and July 27, 2015
Sellers:	Ephram Lahasky and Josh Farkovits
Buyers:	David Gast, Sam Halper, Jeff Arem, Debbie Korngut, Teresa Lichtschein
Percentage Purchased:	David Gast (8.5%), Sam Halper (3.5%), Jeff Arem (5%), Debbie Korngut (11.5%), Teresa Lichtschein (7.5%)
Purchase Price:	Total purchase price is \$6 for the 36% ownership transfer (paid).

Capability and Feasibility

There are no project costs associated with this application. The total purchase price for the 36% transfer of ownership is \$6 and has been paid in full. BFA Attachment A is the personal net worth statements of the proposed new shareholders, which shows sufficient liquid resources to cover the purchase price.

No budget analysis was necessary as this is a 36% transfer of ownership interest. Four current members are remaining in the ownership structure with majority interest, and the RHCF is not proposing to change its business model, which has historically been profitable. The facility has no outstanding Medicaid liabilities.

BFA Attachment B is the 2013-2014 certified financial summary of St. Francis Home of Williamsville. As shown, the facility had an average negative working capital position, an average negative net asset position and generated an average net loss of \$1,134,000 for the period. The operating losses and the negative working capital position during 2013 and 2014 were due to excess staffing costs and low occupancy levels. To improve operations the current members, as the new operators of the RHCF effective May 5, 2015, implemented staffing reductions where applicable and renegotiated the labor contract.

BFA Attachment C is a financial summary of Comprehensive Rehabilitation and Nursing Center at Williamsville for 2015 (eight-month internals), 2016 (certified) and 2017 (internals as of October 31,

2017). As shown, the facility had average positive working capital and net asset positions, achieved an average net income of \$922,062 for the period May 1, 2015 - December 31, 2016, and had a net loss of \$116,143 for the period ending October 31, 2017. The reason for the net loss in 2017 was due to the inclusion of depreciation in the amount of \$324,000 in the income statement. Excluding depreciation (non-cash expense), the facility would have had a net income of \$207,857 for the period.

BFA Attachment D is Meadow Park Rehabilitation and Health Care Center's 2013-2016 certified and internal financial statements as of October 31, 2017. As shown, the facility has an average positive working capital position and an average negative net asset position for the period. In addition, the facility had an average net income of \$879,998 for the period 2013-2016 and a net income of \$739,783 for the period ending October 31, 2017. The loss in 2013 was due to the facility having lower occupancy levels than projected and a large one-time Medicaid recoupment during 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 Personal Net Worth Statements of members of Comprehensive Rehabilitation and Nursing Center at Williamsville
- BFA Attachment B 2013-2014 Certified and Internal Financial Summary- St. Francis Home of Williamsville
- BFA Attachment C May 1, 2015 - December 31, 2015 Internal, 2016 Certified and as of October 31, 2017 Internal Financial Summary of Comprehensive Rehabilitation and Nursing Center at Williamsville
- BFA Attachment D 2013-2016 Certified and as of October 31, 2017 Internal Financial Summary for Meadow Park Rehabilitation and Health Care Center



Project # 171175-E
GORNC Operating, LLC d/b/a Gowanda Rehabilitation and
Nursing Center

Program: Residential Health Care Facility
Purpose: Establishment

County: Cattaraugus
Acknowledged: March 24, 2017

Executive Summary

Description

GORNC Operating, LLC, a New York limited liability company, requests approval to be established as the new operator of Gowanda Rehabilitation and Nursing Center, a 160-bed, proprietary, Article 28 residential health care facility (RHCF) located at 100 Miller Street, Gowanda (Cattaraugus County). GNH, LLC is the current operator of the facility. Upon approval of this application, the entity will do business as Gowanda Rehabilitation & Nursing Center. There will be no change in beds or services provided.

On September 13, 2016, GNH, LLC entered into an Operations Transfer and Surrender Agreement (OTSA) with GNH, LLC to transfer its sole rights and obligations as operator of the facility to GORNC Operating, LLC, effective upon approval by the Public Health and Health Planning Council. There is no purchase price related to the transfer/surrender of the operations. The current operator desires to divest itself of the operations of the facility and all of its interest in the tangible and intangible property and other interest to the operation and/or management of the facility. Concurrently, 100 Miller Street, LLC, the current real property owner, entered into a Contract of Sale (COS) with GORNC Realty, LLC for the sale and acquisition of the RHCF's real property for \$16,000,000. The COS will close upon approval of the change in operator. There is a relationship between GORNC Operating, LLC and GORNC Realty, LLC in that there are familial relationships between the members.

The applicant will lease the premises from GORNC Realty, LLC.

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

<u>Current Operator</u> GNH, LLC	
<u>Members</u>	
Nathan Stern	40%
Moshe Scheiner	60%

<u>Proposed Operator</u> GORNC Operating, LLC	
<u>Member</u>	
GORNC Holdings, LLC	100%
Batia Zagelbaum	(17.5%)
Esther R. Barth	(37.5%)
Chaya S. Walden	(15.0%)
Yechiel Zagelbaum	(15.0%)
Yoel Zagelbaum	(15.0%)

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

<u>Current Owner</u> 100 Miller Street, LLC	
<u>Member</u>	
Teddy Lichtschein	100%

<u>Proposed Owner</u> GORNC Realty, LLC	
<u>Members</u>	
Ephraim Zagelbaum	47.5%
Alexander Barth	37.5%
Yehudah J. Walden	15%

Concurrently under review is CON 171392 in which the same proposed members are seeking approval for ownership interest in Orchard Manor Rehabilitation and Nursing Center.

OPCHSM Recommendation
Contingent Approval

Need Summary
The Gowanda Rehabilitation and Nursing Center's occupancy was 95.4% in 2012, 95.6% in 2013, 95.3% in 2014 and 96.4% in 2015.

Program Summary
No negative information has been received concerning the character and competence of the proposed applicants identified as new members. No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application. The applicant does not intend to utilize any

staffing agencies upon their assumption of ownership.

Financial Summary

GORNC Operating, LLC will acquire the operations under the terms of the OTSA. There is no purchase price related to this transaction. GORNC Realty, LLC will acquire the RHCF's real property for \$16,000,000 funded via \$1,600,000 in equity with the remaining \$14,400,000 to be financed with a loan for a ten-year term at 5% interest. Greystone Funding Corporation has provided a letter of interest for the loan at the stated terms. The proposed budget is as follows:

	<u>Year One</u>
Revenues	\$17,719,744
Expenses	<u>17,113,040</u>
Net Income	\$606,704

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 loan commitment for the purchase of the RHCF realty, acceptable to the Department of Health. [BFA]
2. Submission of an executed lease agreement, acceptable to the Department of Health. [BFA]
3. Submission of an executed working capital loan commitment, acceptable to the Department of Health. [BFA]
4. Submission of a photocopy of the Operating Agreement of GORNC Operating, LLC, which is acceptable to the department. [CSL]
5. Submission of a photocopy of a lease for the facility, which is acceptable to the department. [CSL]
6. Submission of a photocopy of the Articles of Amendment of the Articles of Organization of GORNC Operating, LLC, which is acceptable to the department. [CSL]
7. Submission of a photocopy of a Certificate of Amendment of the Articles of Organization of GORNC Holdings, LLC, which is acceptable to the department. [CSL]
8. Submission of a photocopy of the Operating Agreement of GORNC Holdings, LLC, which is acceptable to the department. [CSL]

Approval conditional upon:

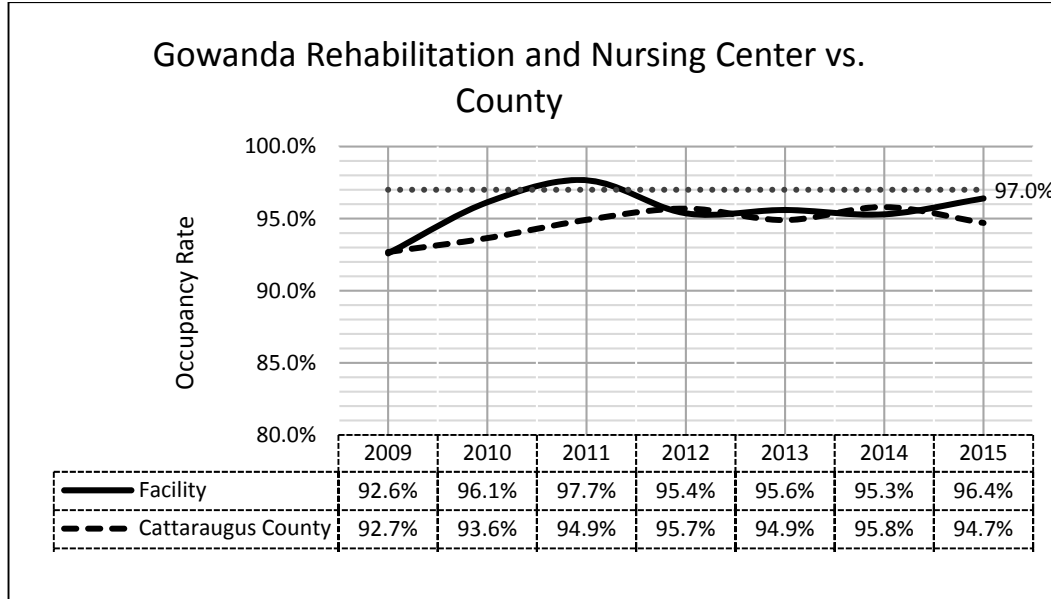
1. The project must be completed within one year from the date of the Public Health and Health Planning Council recommendation letter. Failure to complete the project within the prescribed time shall constitute an abandonment of the application by the applicant and an expiration of the approval. [PMU]

Council Action Date

February 8, 2018

Need Analysis

In 2015 the overall occupancy for Cattaraugus County was 94.7% and 96.4% for the facility.



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.

Gowanda Rehabilitation and Nursing Center's Medicaid admissions rate has consistently exceeded the threshold of 75% of the Cattaraugus County rate, as demonstrated in the table below.

Percent of New RHCf Admissions that are Medicaid	2013	2014	2015
Cattaraugus County 75% Threshold	19.7%	19.4%	20.1%
Gowanda Rehabilitation and Nursing Center	34.3%	32.4%	30.2%

Conclusion

Cattaraugus County has maintained a RHCf occupancy close to planning standards. The Gowanda Rehabilitation and Nursing Center has exceeded County planning thresholds for Medicaid admissions as well as overall occupancy. This change in ownership should not negatively impact access or quality of care, and will enable the new owners to continue providing this well-utilized service.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Gowanda Rehabilitation and Nursing Center	Same
Address	100 Miller Street Gowanda	Same
RHCF Capacity	160	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Same
Operator	GNH, LLC	GORNC Operating, LLC GORNC Holdings, LLC 100% Batia Zagelbaum (17.5%) Esther R. Barth (37.5%) Chaya Walden (15.0%) Yechiel Zagelbaum (15.0%) Yoel Zagelbaum (15.0%)

Character and Competence - Background

Facilities Reviewed

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

Massachusetts Nursing Homes

Cambridge Rehabilitation and Nursing Center	09/2010 to present
Medford Rehabilitation and Nursing Center	04/2012 to present
Rehabilitation and Nursing Center at Everett	01/2013 to 07/2017

Individual Background Review

Batia Zagelbaum is currently employed as a Midwife for Maternal Resources OB, PC. She holds a Certified Nurse-Midwife License in both NY and NJ, a Nurse Practitioner Obstetrics/Gynecology in NY, and a RN license in NY and NJ. All are in good standing. Ms. Zagelbaum discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [9%]	03/2017 to present
----------------------------------------------------	--------------------

Esther Barth has no employment history for the past 10 years, and she holds no professional licenses. Ms. Barth discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [8%]	03/2017 to present
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Chaya Walden is employed in the Accounts Payable office at Windsor Healthcare Management. She holds no professional licenses. Ms. Walden discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [7%]	03/2017 to present
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Yechiel Zagelbaum has been a pediatrician in private practice in Brooklyn, NY since 2002. Dr. Zagelbaum is a New York State Physician with license in good standing; and current certification in general pediatrics. Mr. Zagelbaum discloses the following health facility ownership interests:

Tarrytown Hall Care Center [13.5%]	04/2008 to present
Alpine Rehabilitation and Nursing Center [5%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [15%]	01/2011 to present
Highland Rehabilitation and Nursing Center [10%]	02/2013 to present

Utica Rehabilitation and Nursing Center [5%]	02/2015 to present
Delhi Rehabilitation and Nursing Center[2%]	01/2018 to present
Cambridge Rehabilitation and Nursing Center [10%](MA)	09/2010 to present
Medford Rehabilitation and Nursing Center [10%] (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett [5%] (MA)	01/2013 to 07/2017
Yorktown Rehabilitation & Nursing Center pending. PHHPC approval June 13, 2016.	

Yoel Zagelbaum is an Attorney with the NYS Bar Association and also a Patent attorney in good standing. Mr. Zagelbaum is currently the President at Riverside Abstract, LLC, which is a Title Insurance business. He discloses the following ownership interests:

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Alpine Rehabilitation and Nursing Center [5%]	07/2009 to present
Norwich Rehabilitation and Nursing Center [15%]	01/2011 to present
Highland Rehabilitation and Nursing Center [10%]	02/2013 to present
Utica Rehabilitation and Nursing Center [5%]	02/2015 to present
Delhi Rehabilitation and Nursing Center [2%]	01/2018 to present
Cambridge Rehabilitation and Nursing Center [10%] (MA)	09/2010 to present
Medford Rehabilitation and Nursing Center [10%] (MA)	04/2012 to present
Rehabilitation and Nursing Center at Everett [5%] (MA)	01/2013 to 07/2017

Character and Competence - Analysis

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

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

- The facility was fined \$10,000 pursuant to a Stipulation and Order NH-17-055 issued for surveillance findings on September 12, 2017. A deficiency was found under 10 NYCRR 415.12 Quality of Care Highest Practicable Potential.
- The facility incurred a Civil Monetary Penalty of \$7,023.25 for the immediate jeopardy associated with the survey.

A review of Highland 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-18-002 issued for surveillance findings on September 12, 2017. A deficiency was found under 10 NYCRR 415.5(h)(4) Environment Comfortable and Safe Temperature Level.

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 a reasonably prudent operator would take to prevent the recurrence of the violation.

A review of Utica Rehabilitation and Nursing Center for the period identified above revealed the following:

- The facility was fined \$6,000 pursuant to a Stipulation & Order #18-001 for surveillance findings on December 21, 2016, March 25, 2016 and June 30, 2017. Deficiencies were found under 10 NYCRR 415.12 Quality of Care- Highest Practicable Potential; 415.26 Administration; and 415.4(b)(3) Staff Treatment of Residents/ Investigate. The noted Stipulation & Order omitted F tags 415.12 Quality of Care- Highest Practicable Potential and 415.26 Administration.
- An assessment of the underlying causes of the above enforcement indicates that although the deficiency cited under 10NYCRR 415.4(b)(3) was recurrent in nature, they were for low level D deficiencies.
- The facility incurred a Civil Monetary Penalty of \$11,731.85 for the immediate jeopardy associated with the survey.

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

An affidavit submitted by the applicant for Medford Rehabilitation and Nursing Center, Massachusetts revealed that the facility paid an enforcement of \$96,785 for findings on 2/27/13. Deficiencies were cited under §483.25 – Quality of Care with a scope and severity of L. The affidavit submitted by the applicant revealed that a federal CMP was assessed for June 8, 2016 survey findings. This is still in the appeal process, and no fine has been paid.

An affidavit submitted by the applicant for Rehabilitation and Nursing Center at Everett, Massachusetts revealed that the facility paid an enforcement of \$49,400 for findings on 6/4/13. Deficiencies were cited under §483.10(b)(3) (d)(2)–Informed of Health Status / Medical Condition with a scope and severity of G.

An affidavit submitted by the applicant for Cambridge Rehabilitation and Nursing Center, Massachusetts for the period identified above revealed that the facility was fined \$2,275 pursuant to surveillance findings on 1/12/15. Deficiencies were cited under §483.20(k)(3)(ii) – Qualifications of Facility Staff with a scope and severity of G.

The affidavits provided by the applicant for the above facilities indicate that none of the MA facilities have repeat deficiencies.

Yechiel and Yoel Zagelbaum have an ownership interest in Delhi Nursing & Rehabilitation Center. The review of operations is not included since the facility opened on January 2, 2018.

Quality Review

Provider name	Overall	Health Inspection	Quality Measures	Staffing	Quintile
Highland Rehabilitation and Nursing Center	**	**	****	***	3
Utica Rehabilitation & Nursing Center	*	*	***	***	5
Tarrytown Hall Care Center	*****	****	*****	***	4
Orchard Manor Rehabilitation and Nursing Center	*	*	**	*	5
Norwich Rehabilitation & Nursing Center	**	**	***	***	4
Alpine Rehabilitation and Nursing Center	**	**	**	***	5

MA

Cambridge Rehabilitation & Nursing Center	***	**	*****		
Medford Rehabilitation and Nursing Center	*	*	****	***	

With regard to the homes with quality ratings of one or two, the applicant noted the low ratings are mainly attributed to poor survey results, while in most cases quality measure ratings are higher. The applicant is working to make significant improvements to their older buildings, according to their statement. It is stated that new management personnel have been hired as well as clinical leadership, who have implemented new policies and systems to increase the level of care and overall performance of their facilities. The applicant adds they have “high levels of direct care retention rates”.

It is noted that Utica Rehabilitation and Orchard Manor have been owned less than three years and the nursing homes had low ratings prior to the change of ownership.

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. The applicant does not intend to utilize any staffing agencies upon their assumption of ownership.

Conclusion

No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Operations Transfer and Surrender Agreement

The applicant submitted an executed OTSA 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 13, 2016
Transferor:	GNH, LLC
Transferee:	GORNC Operating, LLC
Asset Acquired:	All furniture, fixtures, furnishing, equipment, appliances, tools, instruments, machinery, computers, computer equipment & hardware, office equipment, vehicles and other transportation equipment, parts, supplies other tangible personal property owned by Transferor. All contracts, agreements, leases, purchase orders, insurance policies, other arrangements that are transferable. All menus, policies, manuals, training material, marketing, sales/promotional materials, and intellectual property. All administrative records, financial books/records, payroll records, medical records. Also, goodwill, petty cash, Medicare and Medicaid Provider #'s, and all other assets.
Excluded Assets:	Cash, licenses and permits not transferable, marketable securities, any grant award by Government Entity related to facility operation prior to closing, funds from all rate adjustments/appeals relating to service prior to close, all accounts receivable.
Purchase Price:	\$0

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 26, 2017, the facility had a nominal outstanding Medicaid overpayment liability of \$24,014.

Contract of Sale

Date:	September 13, 2016
Seller:	100 Miller Street, LLC
Buyer:	GORNC Realty, LLC
Asset Acquired:	160-bed skilled nursing home located at 100 Miller Street, Gowanda New York which includes all real property, equipment, and assignable permits and warranties.
Assumption of Liabilities:	Seller shall retain all liabilities
Purchase Price:	\$16,000,000
Payment of the Purchase Price:	\$250,000 deposit held in escrow; and \$15,750,000 due at Closing.

The purchase price of the real property will be satisfied as follows:

Equity	\$1,600,000
Loan (10 years, 5% interest)	<u>\$14,400,000</u>
Total	\$16,000,000

Greystone Funding Corporation has provided a letter of interest for the financing at the stated terms. BFA Attachment A provides the realty members' net worth summaries, which shows sufficient liquid resources to meet the equity requirements.

Lease Agreement

A draft lease has been submitted to lease the RHCF real property. The terms are summarized below:

Premises:	160-bed RHCF located at 100 Miller St., Gowanda, NY
Landlord:	GORNC Realty, LLC
Lessee:	GORNC Operating, LLC
Term:	10-year Initial Term with renewals via automatic one year extensions for a total term of 20 years from the Commencement Date.
Rental:	\$1,157,628 (base rent \$927,628 + property tax/insurance \$230,000)
Provisions:	Triple Net

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

Operating Budget

The applicant has provided an operating budget, in 2017 dollars, for the first year of operation after the change in ownership. The budget is summarized below:

Revenue	Current Year (2016)		Year One	
	Per Diem	Total	Per Diem	Total
Commercial - FFS		\$0	\$274.81	1,886,851
Medicare - FFS	\$519.07	6,235,575	\$585.03	6,485,015
Medicaid - FFS	\$242.41	9,021,638	\$240.05	6,893,868
Medicaid - MC		0	\$240.04	1,723,467
Private Pay/Other	\$419.61	<u>2,973,332</u>	\$489.28	<u>1,217,340</u>
Total Revenue		\$18,230,545		\$18,206,541
<u>Expenses</u>				
Operating	\$210.23	16,099,400	\$201.76	15,889,949
Capital	<u>\$12.26</u>	<u>1,884,664</u>	<u>\$34.78</u>	<u>1,223,091</u>
Total Expenses	\$222.49	17,984,064	\$236.54	17,113,040
Net Income		<u>\$246,481</u>		<u>\$1,093,501</u>
Utilization (Patient Days)		56,315		56,337
Occupancy		96%		96%

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

- Medicare's per diem rate for Year One is based on the facility's most current average rate of payment, which also includes Medicare Part B and ancillary revenue.
- Commercial – Fee-for-Service revenue was included in Private Pay revenue in the Current year. In Year One is appropriately split between the two.
- All other revenue is based on the current operator's model and then adjusted based on the experience of the applicant.
- Expense assumptions are based on the current operator's model and then adjusted based on the applicant's experience. This includes reducing Plant Operations expense by \$455,263 and a reduction in Rent/Depreciation of \$520,735 that is attributable to the new lease contract.
- The projected utilization for the facility is 96% in Year One and Year Three. It is noted that utilization for the past three years has averaged around 96%.

- Utilization by payor source for the first year after the change in ownership is summarized below:

	<u>Current Year</u>	<u>Year One</u>
Commercial - FFS	0.00%	12.19%
Medicare - FFS	21.33%	19.68%
Medicaid - FFS	66.09%	50.98%
Medicaid - MC	0.00%	12.74%
Private Pay/Other	<u>12.58%</u>	<u>4.42%</u>
	100.00%	100.00%

- The breakeven utilization is projected at 93.2% or 54,408 patient days for the Year One.

Capability and Feasibility

There is no purchase price for the RHCF's operating interest as it will be assigned via an Operations Transfer and Surrender Agreement. There are also no project costs associated with this application. The realty will be purchased for \$16,000,000 funded via \$1,600,000 in the realty members' equity, and a \$14,400,000 ten-year loan at 5% interest. Greystone Funding Corporation has provided a letter of interest. BFA Attachment A is the realty members' net worth summaries, which shows sufficient liquid resources to meet the realty equity noted above.

The working capital requirement is estimated at \$2,852,173 based on two months of Year One expenses. The applicant indicated they will provide \$1,426,087 in working capital to be funded via members' equity with the remaining \$1,426,086 to be satisfied through a five-year term loan at 5% interest. Greystone Funding Corporation has provided a letter of interest. BFA Attachment A is the members' net worth summaries, which shows sufficient liquid resources to meet the working capital equity requirements.

The submitted budget projects net profit of \$46,481 in Year One after the change in ownership. Revenues are estimated to remain approximately the same, while overall expenses are expected to decrease by approximately \$800,000 due mostly to a \$520,735 decrease in rent/depreciation expense from a new lease agreement, and a decrease of \$455,263 in plant operations attributable to the expertise of the new owners. BFA Attachment D is the pro forma balance sheet of both GORNC Operating, LLC and GORNC Realty LLC, which shows the operation entity will start with positive members' equity. The budget appears reasonable.

Implementation of the transition of nursing home (NH) residents to Medicaid managed care is ongoing. Under the managed care construct, Managed Care Organizations (MCOs) negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the Medicaid FFS rate as a benchmark, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. The transition period has been extended out to 2020; hence, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment B is a Financial Summary of Gowanda Rehabilitation and Nursing Center, LLC's 2015-2016 certified financial statements and internal financial statements through August 31, 2017. As shown, the entity had an average positive working capital position, average positive net assets, and an average positive income for the periods shown.

BFA Attachment C is a financial summary of the NYS affiliated nursing homes of proposed members Yoel Zigelbaum and Yechiel Zigelbaum, which shows that all nursing homes having average positive working capital position, average positive net assets, and an average positive income for the periods presented.

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: GORNC Operating, LLC and GORNC Realty, LLC
- BFA Attachment B Financial Summary of Gowanda Rehabilitation and Nursing Center
- BFA Attachment C Proposed Members' Affiliated RHCf Ownership Interest and Financial Summary
- BFA Attachment D Pro Forma Balance Sheet, GORNC Operating, LLC
- BFA Attachment E Organizational Chart



Project # 171392-E
ORRNC Operating, LLC d/b/a Orchard Manor Rehabilitation and Nursing Center

Program: Residential Health Care Facility
Purpose: Establishment

County: Orleans
Acknowledged: June 1, 2017

Executive Summary

Description

ORRNC Operating, LLC d/b/a Orchard Rehabilitation & Nursing Center, a New York limited liability company, requests approval to be established as the new operator of Orchard Manor Rehabilitation and Nursing Center, a 160-bed, proprietary, Article 28 Residential Health Care Facility (RHCF) located at 600 Bates Road, Medina (Orleans County). A separate entity, ORRNC Realty, LLC, will acquire the real property. OMOP LLC is the current RHCF operator and 600 Bates Road LLC is the current real property owner. There will be no change in beds or services provided.

On September 13, 2016, OMOP LLC, entered into an Operations Transfer and Surrender Agreement (OTSA) with ORRNC Operating, LLC wherein OMOP LLC assigned its sole rights to act as operator of the facility to ORRNC Operating, LLC for \$1,000,000. The OTSA transaction is effective upon approval by the Public Health and Health Planning Council.

Concurrently on September 13, 2016, 600 Bates Road LLC entered into a Contract of Sale (COS) with ORRNC Realty, LLC, a New York limited liability company, for the purchase of the real property and certain other assets for \$15,000,000. Closing of the property sale took place on March 1, 2017. In accordance with the COS, ORRNC Realty, LLC assumed the existing lease and became the landlord to OMOP, LLC. Upon approval of this application, ORRNC Operating, LLC will lease the premises from ORRNC Realty, LLC for an initial term of 10 years. There is a relationship between landlord

and tenant in that the members are identical.

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

Table with 2 columns: Members, %
Current Operator: OMOP, LLC
Members: Moshe Scheiner (76.0%), Batia Zaglebaum (9.0%), Esther Barth (8.0%), Chaya Walden (7.0%)

Table with 2 columns: Member, %
Proposed Operator: ORRNC Operating, LLC
Members: ORRNC Holdings, LLC (100%), Batia Zaglebaum (17.5%), Ester Barth (37.5%), Chaya Walden (15.0%), Yoel Zaglebaum (15.0%), Yechiel Zaglebaum (15.0%)

The members of ORRNC Realty, LLC are as follows:

Table with 2 columns: Members, %
ORRNC Realty, LLC
Members: Batia Zaglebaum (17.5%), Ester Barth (37.5%), Chaya Walden (15.0%), Yoel Zaglebaum (15.0%), Yechiel Zaglebaum (15.0%)

Concurrently under review is CON 171175 in which the same proposed members are seeking approval for ownership interest in Gowanda Rehabilitation & Nursing Center.

OPCHSM Recommendation
Contingent Approval

Need Summary
Orchard Manor Rehabilitation and Nursing Center's occupancy was 92.2% in 2012, 89.4% in 2013, 95.1% in 2014 and 92.3% in 2015.

Program Summary
No negative information has been received concerning the character and competence of the proposed applicants identified as new members. No changes in the program or physical environment are proposed in this application. No administrative services or consulting agreements are proposed in this application. The applicant does not intend to utilize any staffing agencies upon their assumption of ownership.

Financial Summary

There are no project costs associated with this application. ORRNC Operating, LLC will acquire the operations under the terms of the OTSA for a purchase price of \$1,000,000. ORRNC Realty, LLC has acquired the RHCF's real property for \$15,000,000 funded via \$2,200,000 equity from the realty members and a bank loan for \$12,800,000 from M&T Bank at 5.23% interest with a five-year term and 25-year amortization. The real property owner has informed the Department that it is their intention to pursue a HUD mortgage by the end of the five-year term. The real property closing took place on March 1, 2017. The proposed budget is as follows:

	<u>Year One</u>
Revenues	\$15,096,722
Expenses	<u>12,998,965</u>
Gain	\$2,097,757

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 applicant's amended and fully executed Operating Agreement, acceptable to the Department. [CSL]
2. Submission of a photocopy of the amended and fully executed Operating Agreement of ORRNC Holdings, LLC, acceptable to the Department. [CSL]
3. Submission of a photocopy of the applicant's fully executed Contract of Sale, 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]

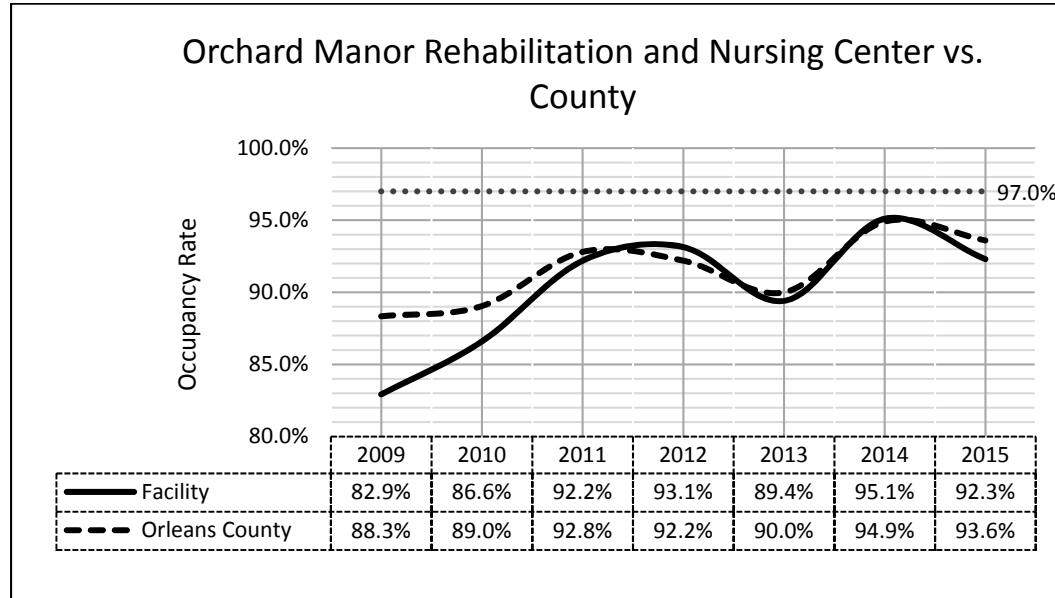
Council Action Date

February 8, 2018

Need Analysis

Analysis

In 2015 the overall occupancy for Orleans County was 93.6% and 92.3% for the facility.



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.

Orchard Manor Rehabilitation and Nursing Center's Medicaid admissions rate has consistently exceeded the threshold of 75% of the Orleans County rate, as demonstrated in the table below. In addition to maintaining a strong occupancy, the new ownership intends to maintain a high Medicaid admissions rate.

Percent of New RHCFA Admissions that are Medicaid	2013	2014	2015
Orleans County 75% Threshold	23.5%	29.6%	25.7%
Orchard Manor Rehabilitation and Nursing Center	41.6%	36.5%	37.1%

Conclusion

Although occupancy in Orleans County and at Orchard Manor Rehabilitation and Nursing Center has been below Department planning thresholds, there is a strong upward trend. Furthermore, Orchard Manor has maintained a high rate of new Medicaid admission.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Orchard Manor Rehabilitation and Nursing Center	Same
Address	600 Bates Road	Same
RHCF Capacity	160	Same
ADHC Program Capacity	N/A	Same
Type of Operator	Limited Liability Company	Same
Class of Operator	Proprietary	Same
Operator	OMOP, LLC	ORRNC Operating, LLC ORRNC Holdings, LLC 100% Batia Zagelbaum (17.5%) Esther R. Barth (37.5%) Chaya Walden (15.0%) Yechiel Zagelbaum (15.0%) Yoel Zagelbaum (15.0%)

Character and Competence - Background

Facilities Reviewed

Tarrytown Hall Care Center	04/2008 to present
Alpine Rehabilitation and Nursing Center	07/2009 to present
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Massachusetts Nursing Homes

Cambridge Rehabilitation and Nursing Center	09/2010 to present
Medford Rehabilitation and Nursing Center	04/2012 to present
Rehabilitation and Nursing Center at Everett	01/2013 to 07/2017

Individual Background Review

Batia Zagelbaum is currently employed as a Midwife for Maternal Resources OB, PC. She holds a Certified Nurse-Midwife License in both NY and NJ, a Nurse Practitioner Obstetrics/Gynecology in NY, and a RN license in NY and NJ. All are in good standing. Ms. Zagelbaum discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [9%]	03/2017 to present
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Esther Barth has no employment history for the past 10 years, and she holds no professional licenses. Ms. Barth discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [8%]	03/2017 to present
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Chaya Walden is employed in the Accounts Payable office at Windsor Healthcare Management. She holds no professional licenses. Ms. Walden discloses the following ownership interest:

Orchard Manor Rehabilitation & Nursing Center [7%]	03/2017 to present
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Yechiel Zagelbaum has been a pediatrician in private practice in Brooklyn, NY since 2002. Dr. Zagelbaum is a New York State Physician with license in good standing; and current certification in general pediatrics. Mr. Zagelbaum discloses the following health facility ownership interests:

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Yorktown Rehabilitation & Nursing Center pending. PHHPC approval June 13, 2016.	

Yoel Zagelbaum is an Attorney with the NYS Bar Association and also a Patent attorney in good standing. Mr. Zagelbaum is currently the President at Riverside Abstract, LLC, which is a Title Insurance business. He discloses the following ownership interests:

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Character and Competence - Analysis

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

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- The facility was fined \$10,000 pursuant to a Stipulation and Order NH-17-055 issued for surveillance findings on September 12, 2017. A deficiency was found under 10 NYCRR 415.12 Quality of Care Highest Practicable Potential.
- The facility incurred a Civil Monetary Penalty of \$7,023.25 for the immediate jeopardy associated with the survey.

A review of Highland 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-18-002 issued for surveillance findings on September 12, 2017. A deficiency was found under 10 NYCRR 415.5(h)(4) Environment Comfortable and Safe Temperature Level.

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 a reasonably prudent operator would take to prevent the recurrence of the violation.

A review of Utica Rehabilitation and Nursing Center for the period identified above revealed the following:

- The facility was fined \$6,000 pursuant to a Stipulation & Order #18-001 for surveillance findings on December 21, 2016, March 25, 2016 and June 30, 2017. Deficiencies were found under 10 NYCRR 415.12 Quality of Care- Highest Practicable Potential; 415.26 Administration; and 415.4(b)(3) Staff Treatment of Residents/ Investigate. The noted Stipulation & Order omitted F tags 415.12 Quality of Care- Highest Practicable Potential and 415.26 Administration.
- An assessment of the underlying causes of the above enforcement indicates that although the deficiency cited under 10NYCRR 415.4(b)(3) was recurrent in nature, they were for low level D deficiencies.
- The facility incurred a Civil Monetary Penalty of \$11,731.85 for the immediate jeopardy associated with the survey.

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

An affidavit submitted by the applicant for Medford Rehabilitation and Nursing Center, Massachusetts revealed that the facility paid an enforcement of \$96,785 for findings on 2/27/13. Deficiencies were cited under §483.25 – Quality of Care with a scope and severity of L. The affidavit submitted by the applicant revealed that a federal CMP was assessed for June 8, 2016 survey findings. This is still in the appeal process, and no fine has been paid.

An affidavit submitted by the applicant for Rehabilitation and Nursing Center at Everett, Massachusetts revealed that the facility paid an enforcement of \$49,400 for findings on 6/4/13. Deficiencies were cited under §483.10(b)(3) (d)(2)–Informed of Health Status / Medical Condition with a scope and severity of G.

An affidavit submitted by the applicant for Cambridge Rehabilitation and Nursing Center, Massachusetts for the period identified above revealed that the facility was fined \$2,275 pursuant to surveillance findings on 1/12/15. Deficiencies were cited under §483.20(k)(3)(ii) – Qualifications of Facility Staff with a scope and severity of G.

The affidavits provided by the applicant for the above facilities indicate that none of the Massachusetts facilities have repeat deficiencies.

Yechiel and Yoel Zagelbaum have an ownership interest in Delhi Nursing & Rehabilitation Center. The review of operations is not included since the facility opened on January 2, 2018.

Quality Review

Provider name	Overall	Health Inspection	Quality Measures	Staffing	Quintile
Highland Rehabilitation and Nursing Center	**	**	****	***	3
Utica Rehabilitation & Nursing Center	*	*	***	***	5
Tarrytown Hall Care Center	*****	****	*****	***	4
Orchard Manor Rehabilitation and Nursing Center	*	*	**	*	5
Norwich Rehabilitation & Nursing Center	**	**	***	***	4
Alpine Rehabilitation and Nursing Center	**	**	**	***	5

MA

Cambridge Rehabilitation & Nursing Center	***	**	*****	
Medford Rehabilitation and Nursing Center	*	*	****	***

For the homes with quality ratings of one or two, the applicant noted the low ratings are mainly attributed to poor survey results, while in most cases quality measure ratings are higher. The applicant is working to make significant improvements to their older buildings, according to their statement. It is stated that new management personnel have been hired as well as clinical leadership, who have implemented new

policies and systems to increase the level of care and overall performance of their facilities. The applicant adds they have “high levels of direct care retention rates”.

It is noted that Utica Rehabilitation and Orchard Manor have been owned less than three years and the nursing homes had low ratings prior to the change of ownership.

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. The applicant does not intend to utilize any staffing agencies upon their assumption of ownership.

Conclusion

No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Operations Transfer and Surrender Agreement

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

Date:	September 13, 2016
Transferor:	OMOP LLC
New Operator:	ORRNC Operating LLC
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.
Assumed Liabilities:	Any liability arising on or after the effective date of this agreement.
Purchase Price:	\$1,000,000
Payment of Purchase Price:	\$1,000,000 cash upon closing.

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 as of October 3, 2017.

Lease Agreement

Facility occupancy is subject to an executed lease agreement, the terms of which are summarized as follows:

Date:	January 4, 2017
Premises:	A 160-bed RHCF located at 600 Bates Rd., Medina, New York 14103
Landlord:	ORRNC Realty, LLC
Tenant:	ORRNC Operating, LLC
Terms:	10 years commencing on execution of the lease with a year to year option to renew up to 20 years.
Rental:	An amount equal to the lessor's initial debt service in the amount of \$76,553 per month (\$918,633 annual) plus \$245,000 additional annual rent for property taxes and insurance.
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 2017 dollars, for the first year subsequent to the change of ownership. The budget is summarized below:

	<u>Current Year (2016)</u>		<u>Year One</u>	
	<u>Per Diem</u>	<u>Total</u>	<u>Per Diem</u>	<u>Total</u>
<u>Revenues</u>				
Medicaid	\$209.89	\$7,677,495	\$213.80	\$8,818,059
Medicare	\$593.28	3,531,797	\$682.30	3,202,704
Commercial	\$256.61	2,279,692	\$298.11	1,916,250
Private Pay	\$276.59	483,757	\$276.59	586,647
Other operating revenue		8,363		0
Assessment revenue		0		<u>573,062</u>
Total Patient Revenues		\$13,981,104		\$15,096,722
Non-Operating Revenue		<u>2,052,405</u>		0
Total Revenues		\$16,033,509		\$15,096,722
<u>Expenses</u>				
Operating	\$252.62	\$13,430,160	\$211.49	\$11,735,332
Capital	<u>19.84</u>	<u>1,054,938</u>	<u>22.77</u>	<u>1,263,633</u>
Total Expenses	\$272.46	\$14,485,098	\$234.27	\$12,998,965
Net Income (Loss)		<u>\$1,548,411</u>		<u>\$2,097,757</u>
Total Patient Days		53,164		55,488
Occupancy %		90.63%		95.01%

The following is noted with respect to the submitted budget:

- The current year reflects the facility's 2016 payor and 2016 RHCF-4 cost report information. Historical utilization for base year 2016 was 90.63%.
- First year budgeted expenses will decrease due to the elimination of the current outside management company for administrative duties. These departmental activities will be performed internally under new management.
- First year budgeted utilization is expected to increase due to the use of a corporate admissions marketing team already in place within the region.
- Non-operating revenue in the current year is investment income and cancellation of Debt.
- Other operating revenue in 2016 represents medical record fees and beauty shop income.

- For budget year one, Medicaid revenues are projected based on the current operating and capital components of the facility's 2017 Medicaid FFS rate plus assessments. Medicare and Private Pay rates are based on average per diems experienced during 2016.
- Utilization by payor source is as follows:

	<u>Current Year</u>	<u>Year One</u>
Medicaid	68.91%	74.33%
Medicare	11.16%	10.26%
Commercial	16.67%	11.59%
Private	3.26%	3.82%

- Breakeven utilization is 81.81% for the first year.

Capability and Feasibility

There are no project costs associated with this application. ORRNC Operating, LLC will acquire the operations under the terms of the OTSA for \$1,000,000 via proposed members equity. ORRNC Realty, LLC acquired the RHCf's real property on March 1, 2017 for \$15,000,000 funded via \$2,200,000 equity from the realty members and a bank loan for \$12,800,000 from M&T Bank at 5.23% interest with a five-year term and 25-year amortization. The real property owner has informed the Department that it is their intention to pursue a HUD mortgage by the end of the five-year term.

The working capital requirement of \$2,166,494, based on two months of the first year's expenses, will be satisfied from proposed members' equity. Proposed members, Batia Zagelbaum, Yoel Zagelbaum and Yechiel Zagelbaum have submitted an affidavit stating that they will contribute a disproportionate share of their equity for any proposed member unable to meet the equity requirements for this project. BFA Attachment A, proposed members' net worth of ORRNC Operating LLC, reveals sufficient resources exist for stated levels of equity. BFA Attachment E is the pro-forma balance sheet as of the first day of operation, which indicates a positive members' equity of \$1,000,000. It is noted that assets include \$1,000,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Excluding goodwill, members' equity would be a \$0.

The submitted budget indicates that net income of \$2,097,757 will be generated for the first year. BFA Attachment F is the budget sensitivity analysis based on current utilization of the facility as of June 30, 2017, which shows the budgeted revenues would increase by \$290,881 resulting in a net income in year one of \$2,388,638. The budget appears reasonable.

Implementation of the transition of nursing home (NH) residents to Medicaid managed care is ongoing. Under the managed care construct, Managed Care Organizations (MCOs) negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the Medicaid FFS rate as a benchmark, or a negotiated rate acceptable to both plans and NH, for three years after a county has been deemed mandatory for NH population enrollment. The transition period has been extended out to 2020; hence, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment C, financial summary of Orchard Manor Rehabilitation & Nursing Center, indicates that the facility has maintained positive working capital, equity position and experienced a net loss of \$320,533 for 2016. The 2016 net operating loss is due to plant operation and maintenance expenses, which have been reduced since the new landlord took over the property. The 2014-2015 operating loss and the negative working capital are due to higher than expected accounts payable. The facility has been working toward paying down these payables in 2016 by improving administrative functions. As of June 30, 2017, Orchard Manor Rehabilitation & Nursing Center has maintained positive working capital, net equity and a net operating income of \$941,266.

BFA Attachments D, financial summary of the proposed members' affiliated RHCf's, shows the facilities have maintained positive net income from operations for the periods shown.

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.

Attachments

BFA Attachment A	Proposed Members Net Worth Statement, ORRNC Operating, LLC and ORRNC Realty, LLC
BFA Attachment B	Organizational Chart
BFA Attachment C	Financial Summary, Orchard Manor Rehabilitation and Nursing Center
BFA Attachment D	Affiliated Residential Health Care Facilities
BFA Attachment E	Pro Forma Balance Sheet for ORRNC Realty, LLC and ORRNC Operating, LLC
BFA Attachment F	Budget Sensitivity Analysis



Project # 172031-E
**White Plains Nursing Home, Inc. d/b/a Bronx Park
Rehabilitation & Nursing Center**

Program: Residential Health Care Facility
Purpose: Establishment

County: Bronx
Acknowledged: July 21, 2017

Executive Summary

Description

White Plains Nursing Home, Inc. d/b/a Bronx Park Rehabilitation & Nursing Center (Bronx Park) is a New York proprietary business corporation that operates a 240-bed, Article 28 residential health care facility (RHCF) located at 3845 Carpenter Avenue in the Bronx. The current sole shareholder, David Loren, requests approval to assign and transfer 100% ownership interest (125 shares) in the RHCF to Craig Ari Loren, who is currently the facility's Executive Vice President responsible for overseeing all financial and management decisions of Bronx Park. There will be no change in beds or services provided.

The applicant has provided an executed stock purchase agreement (SPA) dated June 2, 2017, between David Loren (Seller) and Craig Ari Loren (Purchaser) for the sale and acquisition of the operating interest of the RHCF for a total consideration of \$7,073,781. The closing of the transaction is to be effectuated upon Public Health and Health Planning Council (PHHPC) approval. The realty ownership will not change as a result of this application and the existing lease will continue without any changes.

OPCHSM Recommendation
Contingent Approval

Need Summary

There will be no Need recommendation of this application.

Program Summary

No negative information has been received concerning the character and competence of the proposed applicant identified as new shareholder.

No administrative services or consulting agreements are proposed in this application. The applicant does not intend to utilize any staffing agencies upon assumption of ownership.

Financial Summary

There are no project costs associated with this application. The total consideration for the stock purchase agreement is \$7,073,781 consisting of the following:

Stock Purchase Price	\$4,500,000
Assumption of existing note	\$1,200,000
Assumption of Tax liabilities	\$500,000
Assumption of Outstanding Loans	<u>\$873,781</u>
Total Consideration	\$7,073,781

The existing note was a personal loan made by the Purchaser to the Seller in 2015 that will be converted from debt to equity via a Purchaser's forgiveness at closing and will be used as consideration toward the purchase of the nursing home.

Tax liabilities are an estimate of what David Loren will owe from owning the shares of the company from 4/1/16 to closing. To date, Craig Ari Loren has paid \$390,000 for David Loren's tax liability.

The assumption of outstanding loans consists of two loans, \$147,781 and \$726,000, respectively, currently on the books of Bronx Park.

The stock purchase price is to be financed via a ten-year loan at 5.81% interest. InvestorsBank has provided a letter of interest. The projected budget is as follows:

	<u>Year One</u>
Revenues	\$23,382,630
Expenses	<u>21,958,079</u>
Net Income	\$1,424,551

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 loan commitment, acceptable to the Department of Health. [BFA]
2. Submission of a copy of the amended by-laws of the applicant which are 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

February 8, 2018

Program Analysis

Facility Information

	Existing	Proposed
Facility Name	Bronx Park Rehabilitation & Nursing Center	Same
Address	3845 Carpenter Ave. Bronx, NY 10467	Same
RHCF Capacity	240	Same
ADHC Program Capacity	0	Same
Type of Operator	Corporation	Same
Class of Operator	Proprietary	Same
Operator	White Plains Nursing Home, Inc. David Loren 100.00%	White Plains Nursing Home, Inc. Craig Ari Loren 100.00%

Character and Competence - Background

Craig Ari Loren has been employed by his father, David Loren, as the Executive Vice President at Bronx Park Rehabilitation & Nursing Center since October 2015. Previously Mr. Loren was the administrator of record at Bridgeport Health Care Center in Connecticut. Mr. Loren has a Connecticut nursing home license that expired in November 2010, and a Master's degree in International Business. Mr. Loren discloses no health facility ownership interests.

A review of Mr. Loren's current position indicates that Mr. Loren actively participates in the day to day operations of the nursing home.

Character and Competence - Analysis

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

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. The applicant does not intend to utilize any staffing agencies upon their assumption of ownership.

Conclusion

No negative information has been received concerning the character and competence of the proposed applicants identified as new members.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Stock Purchase Agreement (SPA)

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

Date:	June 2, 2017
Seller:	David Loren
Buyer:	Craig Ari Loren
Shares Acquired:	125 shares of stock (100%)
Purchase Price:	Total consideration of \$7,073,781
Payment of Purchase Price:	\$4,500,000 Loan; \$1,200,000 Assumption of existing note from Purchaser; \$500,000 Assumption of Tax liabilities (\$390,000 has been paid to date via equity, and \$873,781 Assumption of Outstanding Loans.

The applicant anticipates financing \$4,500,000 of the purchase price via a ten-year loan at 5.81% interest. InvestorsBank has provided a bank letter of interest for the loan. The existing note from the purchaser consists of a \$1,200,000 personal loan from Craig Ari Loren to David Loren that will be converted from debt to equity via a Purchaser's forgiveness at closing. The proposed sole shareholder will also assume \$873,781 of existing shareholder loans. The assumed tax liability of \$500,000 is based on the estimated taxes expected to be owed on the sale of the shares. Generally, the taxes are paid by the Seller, but a provision in the stock purchase agreement indicates that the Buyer will pay for the tax amount.

Lease Agreement

The current executed lease will not change. The terms are summarized as follows:

Date:	October 7, 1997
Premises:	A 240-bed RHCF located at 3845 Carpenter Avenue, Bronx, NY
Landlord:	Winn Care Inc. and Corona N.H. Realty Company
Tenant:	White Plains Nursing Home, Inc.
Terms:	25 years starting from October 7, 1997 with option to renew for an additional 25-years
Amount:	\$300,000 per annum. Increased to \$325,000 during the option to renew period.

The applicant has submitted an affidavit attesting that there is no relationship between the landlord and the operating entity.

Operating Budget

The applicant has provided an operating budget, in 2017 dollars, for the first year subsequent to the change of ownership. The budget is summarized below:

Revenue	Current Year (2016)		Year One	
	Per Diem	Total	Per Diem	Total
Commercial - MC	\$70.06	\$539,826	\$436.84	\$3,320,000
Medicare - FFS	\$626.34	3,460,509	\$660.00	3,960,000
Medicaid - FFS	\$252.25	17,708,983	\$220.53	15,657,630
Private Pay	\$543.39	198,880	\$500.00	200,000
Other		<u>247,343</u>		<u>245,000</u>
Total Revenue		\$22,155,541		\$23,382,630
<u>Expenses</u>				
Operating	\$245.09	\$20,538,725	\$250.81	\$21,318,629
Capital	<u>\$7.58</u>	<u>635,537</u>	<u>\$7.52</u>	<u>639,450</u>
Total Expenses	\$252.68	\$21,174,262	\$258.33	\$21,958,079
Net Income		<u>\$981,279</u>		<u>\$1,424,551</u>
Utilization (Pt Days)		83,800		85,000
Occupancy		95.66%		97.03%

The following is noted with respect to the submitted budget:

- In the Current Year, there was a significant write-off of approximately \$1.2 million for uncollectable Commercial Managed Care receivables, which is represented in the commercial revenue figures above.
- Medicaid and Medicare rates are based on the current year rates, which are the average per diems experienced during 2016.
- Other – Revenue represents amounts received for Medicare Part B income and is based on the current year.
- Operating expenses are based on the current year and are the average per diems experienced during 2016.
- The Medicaid admissions of 53.7% in 2015 and 40.4% in 2016 exceeded Bronx County's 75% threshold rates of 28.6% for 2015 and 28.0% for 2016.
- Utilization by payor source is as follows:

	<u>Current Year</u>		<u>Year One</u>	
	<u>Days</u>	<u>%</u>	<u>Days</u>	<u>%</u>
Commercial - MC	7,705	9.19%	7,600	8.94%
Medicare - FFS	5,525	6.59%	6,000	7.06%
Medicaid - FFS	70,204	83.78%	71,000	83.53%
Private Pay	<u>366</u>	<u>0.44%</u>	<u>400</u>	<u>0.47%</u>
Total	83,800	100.00%	85,000	100.00%

Capability and Feasibility

There are no project costs associated with this application. The total consideration for the stock purchase agreement is \$7,073,781 which consists of the following:

Stock Purchase Price	\$4,500,000
Assumption of existing note from Purchaser	\$1,200,000
Assumption of Tax liabilities	\$500,000
Assumption of Outstanding Loans	<u>\$873,781</u>
Total Consideration	\$7,073,781

The existing note was a loan made by the Purchaser to the Seller and is being converted from debt to equity via a Purchaser's forgiveness at closing and is being used as consideration toward the purchase of the nursing home.

Tax liabilities are an estimate of taxes David Loren will owe from owning the shares of the company from 4/1/16 to closing. To date, Craig Ari Loren has paid \$390,000 for David Loren's tax liability.

The assumption of outstanding loans consists of two loans, \$147,781 and \$726,000, respectively, currently on the books of Bronx Park.

BFA Attachment A, Proposed Member's Net Worth, reveals sufficient resources for stated levels of equity.

The working capital requirement of \$3,659,680 based on two months of the first year's expenses will be satisfied via current operations. BFA Attachment B indicates sufficient working capital to satisfy the working capital requirement.

The submitted budget indicates that net income of \$1,424,551 will be generated for the first year after the change in ownership. Revenues are estimated to increase from the current year by approximately \$1,200,000 based on the write-off of significant commercial managed care receivables in 2016. Overall expenses are expected to increase from the current year by \$800,000 due to an increase per annum for inflation to reflect 2018 dollars.

Implementation of the transition of nursing home (NH) residents to Medicaid managed care is ongoing. Under the managed care construct, Managed Care Organizations (MCOs) negotiate payment rates directly with NH providers. A Department policy paper provided guidance requiring MCOs to pay the Medicaid FFS rate as a benchmark, or a negotiated rate acceptable to both plans and NH, for three years

after a county has been deemed mandatory for NH population enrollment. The transition period has been extended out to 2020; hence, the benchmark FFS rate remains a viable basis for assessing NH revenues through the transition period.

BFA Attachment B, Financial Summary of White Plains Nursing Home, Inc., indicates that the facility has experienced positive working capital, net income, and equity position for the period shown.

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.

Attachments

BFA Attachment A Proposed Member's Net Worth
BFA Attachment B Financial Summary, White Plains Nursing Home, Inc.



**Project # 171041-E
Shining Star Home Health Care**

Program: Certified Home Health Agency
Purpose: Establishment

County: Kings
Acknowledged: January 19, 2017

Executive Summary

Description

Shining Star Home Care, LLC (Shining Star), a proprietary, Article 36 certified home health agency (CHHA), requests approval for a three-year extension to its limited life operating certification. The agency was established as a special pilot program CHHA, certified to serve individuals at higher risk for hospitalization due to heart disease, stroke and diabetes. The agency is authorized to serve individuals in Bronx, Kings, New York and Queens Counties. The CHHA was approved through CON 072094 with a conditional five-year limited life and began operations effective January 17, 2012. The applicant notified the Department before their limited life expiration, requesting a three-year extension. The CHHA currently operates from leased office space located at 5922 18th Avenue, Brooklyn (Kings County).

Shining Star's services are limited to the special pilot program population authorized under its initial operating certificate. The CHHA is certified for the following services: home health aides, medical social services, medical supplies equipment and appliances, nursing, nutrition, occupational therapy, physical therapy, and speech language pathology

The current membership of Shining Star Home Care, LLC consists of Yechiel Landau (80%) and Yvette Henriquez (20%).

OPCHSM Recommendation
Disapproval

Need Summary

Utilization has been significantly below projected visits. In its original 2007 application, Shining Star projected in excess of 175,000 visits by Year Three. Shining Star reports that 2016 visits were only 2,999. The applicant reports some increase in utilization in October and November 2017, but it is only a marginal improvement. The applicant believes they can continue to increase visits over the next three years. Additionally, the agency did not meet their 2% charity care requirement in in any of its five years of operation.

Program Summary

From its initial date of operation of January 17, 2012, through the present time, Shining Star Home Care, LLC d/b/a Shining Star Home Health Care has remained in compliance with all Conditions of Participation, with no history of any enforcement actions taken against this CHHA.

Financial Summary

The applicant demonstrated poor operating performance, failing to achieve projected breakeven utilization and sustaining operating losses in each of the five years it has been operating, including a reported loss of \$499,025 in 2016.

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

	<u>Year One</u>	<u>Year Three</u>
Revenue	\$735,600	\$757,662
Expenses	718,308	725,843
Net Income	\$17,292	\$31,819

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Disapproval

Council Action Date

February 8, 2018

Need Analysis

Background

Utilization	072094 Projected Year One	072094 Projected Year Three	Actual 2013 (1 st Full Year)	Actual 2014	Actual 2015 (3 rd Full Year)	Actual 2016
Nursing	7,199	21,783	240	1,773	3,176	2,261
Occupational Therapy	196	320	0	43	16	1
Physical Therapy	561	1,336	39	278	522	184
Speech/Language Pathology	27	57	0	17	37	1
Medical Social Services	21	307	2	14	4	12
Home Health Aide	26,748	151,465	1,788	3,618	2,924	540
Total	34,752	175,268	2,069	5,743	6,679	2,999

Source of Actual is Agency's Cost Reports

Utilization has been significantly below projected visits. Utilization has not grown significantly over the CHHA's five years of operations, however, in 2017 an increase of visits from approximately 346 per month to 430 per month for October and November was reported. The applicant believes it can continue to increase visits over the next three years, but has not demonstrated a viable plan to significantly increase volume. Additionally, the agency did not meet its 2% charity care requirement in any of its five years of operation.

Analysis

The original approval of this CHHA was to permit a special pilot program to serve those individuals at risk for hospitalization due to heart disease, stroke and diabetes in communities within Kings, Queens, Bronx and New York Counties. It is not clear that this CHHA has served a distinctly different special population from that of other CHHAs, nor has the program of care been found to be unique.

Program Analysis

Review Summary

This special needs population CHHA operates from its sole practice location in leased office space located at 5922 18th Avenue, Brooklyn, New York 12204. It serves mostly the approved special pilot program population of individuals identified as being at higher risk for hospitalization due to heart disease, stroke, and diabetes, will continue to serve the approved geographic service area of Bronx County, Kings County, New York County, and Queens County. Shining Star offers the services of home health aide, medical social services, medical supplies/equipment/appliances, nursing, nutritional services, occupational therapy, physical therapy, and speech language pathology.

As required in the PHHPC conditional approval, annual reports by an outside independent agency have been submitted to NYSDOH for years 2012/2013, 2014, and 2015. The 2016 and 2017 annual reports have not been submitted and the 2016 report is overdue.

In its establishment application, Shining Star Home Care, LLC, d/b/a Shining Star Home Health Agency, cited the NYSDOH Prevention Quality Indicators that reports that low income minority neighborhoods located in the four above named counties have up to two to three times more hospital admissions and readmissions due to heart disease, stroke, and diabetes than the statewide average. In its five years of operation, the CHHA reports that it has served predominantly the target population.

The applicant reports the following:

- In 2012 (total of three patients served) and 2013 (total of 24 patients served), the applicant reports that one patient visited an Emergency Department, and two patients were readmitted to a hospital. None of those Shining Star patients was readmitted due to diabetes, heart disease, or stroke. The statewide averages for Emergency Department visits, and potentially preventable hospital readmission rates for Bronx, Kings, New York, and Queens Counties, for years 2012 and 2013, were unreported.
- In 2014, the applicant reports that seven of Shining Star's 205 patients (3.4%) visited an Emergency Department, compared to a statewide average that year of 23.13%, and three of those seven visits were due to unrelated occurrences (one injury due to a fall, one urinary tract infection, and one decline in three or more activities of daily living). Seven of Shining Star's 205 patients (3.4%) were readmitted to a hospital, compared to a potentially preventable hospital readmission rate that year for Bronx, Kings, New York, and Queens Counties ranging from 6.1% to 7.54%. None of those Shining Star patients was readmitted due to diabetes, heart disease, or stroke.
- In 2015, the applicant reports that eight of Shining Star's 214 patients (3.7%) visited an Emergency Department, compared to a statewide average that year of 23.53%, and five of those eight visits were due to unrelated occurrences (four injuries due to a fall, and one urinary tract infection). Eight of Shining Star's 214 patients (3.7%) were readmitted to a hospital, compared to a potentially preventable hospital readmission rate that year for Bronx, Kings, New York, and Queens Counties ranging from 6.1% to 7.54%. One of those Shining Star patients was readmitted due to diabetes, and none were readmitted due to heart disease or stroke.
- In 2016, the applicant reports that 18 of Shining Star's 140 patients (12.8%) were readmitted to a hospital. Shining Star reports that in 2016 it abandoned its Allscripts clinical software medical record system which had proven to be overly expensive and unreliable for information reporting purposes. Shining Star instead invested in a new clinical software system called Home Care Home Base. The applicant states that implementing this new intake and clinical documentation software system during 2016 affected its ability to accept admissions, process intake data, and properly maintain clinical data during 2016, which was a factor in the decrease in admissions by 74 patients from 2015 to 2016, and the increase in hospital readmissions in 2016. Looking forward, Shining Star had also taken the following initiatives to both increase intake and utilization, and prevent future Emergency Department visits and hospital readmissions:
 - Renegotiating various HMO and MLTCP contracts, resulting in better reimbursement rates for services and improved financial stability
 - Partnering with Relias Learning to customize orientation and inservice education curriculum used to train the CHHA's skilled professionals
 - Creating an advanced wound care program with staff trained as specialists to treat complex wounds, providing an advantage over other CHHAs who typically do not accept such patients
 - Hiring a specialized Case Manager to provide extensive clinical oversight for patients who are at risk for hospital readmission
 - Engaging in weekly conference calls with patients, families, doctors, nurses, and case managers. Patients at higher risk for hospital readmission receive daily telephone calls at home from clinical professionals to ensure proper medications were taken in the proper dosages and at the proper times of day. If additional services or care are required, the clinical professional will immediately contact the patient's nurse to provide timely intervention before an emergency situation arises.
 - Partnering with a particular pharmacy that pre-packages patient medications in small packets, to help ensure the patient is taking the correct dose at the correct time, in order to alleviate medication errors, a leading reason for both Emergency Department visits and hospital readmissions.
- In 2017 (through December 20, 2017), the applicant reports that only 15 of Shining Star's 726 patients (2.1%) were discharged to a hospital or Emergency Department. The applicant reports that, per statistics published by the Agency for Healthcare Research and Quality, the average readmission rate for patients seven days after discharge from a hospital was 7.5%, and 30 days

after discharge from a hospital was 21.1%. The applicant contends it has demonstrated that it significantly increased its patient admissions during Year 2017, and significantly decreased its hospital readmission rate for Year 2017, which fell well below the above-cited hospital readmission averages.

It is noted that 2016 and 2017 data is self-reported and lacks the required verification of an outside independent entity. The failure to submit a timely 2016 annual report as required by the terms of the CHHA's Public Health Council approval represents a violation of a condition of the Certificate of Need approval for CON 072094.

The applicant reports that three of the three patients served in 2012, 18 of the 24 patients served in 2013, 168 of the 205 patients served in 2014, 161 of the 214 patients served in 2015, and 648 of the 726 patients served in 2017, had diagnoses that identified the patient as being at higher risk for hospitalization due to heart disease, stroke, or diabetes. (Year 2016 breakdown unavailable). The remaining patients had diagnoses that identified the patient as being at higher risk for hospitalization due to other chronic diseases, most notably chronic obstructive pulmonary disease. Accordingly, 100% in 2012, 75% in 2013, 82% in 2014, 75.23% in 2015, (2016 unavailable), and 89.26% in 2017 of the patients served by Shining Star Home Care, LLC, d/b/a Shining Star Home Health Agency, during its first five years of operation, had diagnoses that identified the patient as being at higher risk for hospitalization due to heart disease, stroke, or diabetes, with the remainder of the patients being at higher risk for hospitalization due to chronic obstructive pulmonary disease or other chronic diseases.

Per a check of the Medicare.gov Home Health Compare website on October 18, 2017 (website updated on July 21, 2017), quality measure ratings, both overall rating and ratings for individual quality measures, were provided for the patients whose end of care occurred during the 12-month reporting period April 1, 2016 through March 31, 2017. A minimum of 20 end-of-care episodes must have occurred during that particular reporting period in order for a specific quality measure to receive any rating. For quality measures for end-of-care episodes that occurred during the reporting period April 1, 2016 through March 31, 2017, Shining Star's overall rating was 3 out of 5 stars, compared to the New York State average of 3 out of 5 stars, and the national average of 3.5 out of 5 stars. For individual quality measures for end-of-care episodes that occurred during the reporting period April 1, 2016 through March 31, 2017, Shining Star:

- 1) performed above the NYS and national averages for the following Preventing Harm quality measures:
 - For patients with diabetes, how often the home health team got doctor's orders, gave foot care, and taught patients about foot care
 - How often the home health team checked patient for depression
- 2) performed at or very near the NYS and national averages for the following Preventing Harm quality measures:
 - How often the home health team began their patients' care in a timely manner
 - How often the home health team taught patients (or their family caregivers) about their drugs
 - How often the home health team checked patients' risk of falling
- 3) performed at or very near the NYS and national averages for the following Managing Pain and Treating Symptoms quality measures:
 - How often patients had less pain when moving around
 - How often patients' breathing improved (had less shortness of breath).

For the Preventing Unplanned Hospital Care quality measures, and for the Managing Pain and Treating Symptoms quality measure of how often patients' wounds improved or healed after an operation, Shining Star did not have a minimum of 20 end-of-care episodes that occurred during that particular reporting period that were applicable to that specific quality measure, and therefore could not receive a rating at that time.

For the remaining quality measures during that particular reporting period, Shining Star rated slightly below or moderately below the NYS and national averages.

CHHA Overall Quality of Patient Care Star Ratings
(per <https://www.medicare.gov/homehealthcompare/search.html>, as of 01/05/2018)
New York Average: 3 out of 5 stars **National Average:** 3.5 out of 5 stars

CHHA Name	Overall Quality of Care Rating
Shining Star Home Health Care	3 out of 5 stars

The NYSDOH Division of Home and Community Based Services reports that, from its initial date of operation of January 17, 2012, through the present time, Shining Star Home Care, LLC, d/b/a Shining Star Home Health Care, has remained in compliance with all Conditions of Participation, with no history of any enforcement actions taken against this CHHA.

Financial Analysis

Operating Budget

The applicant submitted their current year (2016) results, and their first and third year operating budgets subsequent to approval, in 2017 dollars, as shown below:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
<u>Revenues</u>			
Medicare	\$147,110	\$556,806	\$573,504
Medicaid	15,692	57,940	59,678
All Other	<u>33,344</u>	<u>120,854</u>	<u>124,480</u>
Total Revenues	\$196,146	\$735,600	\$757,662
<u>Expenses</u>			
Operating	\$672,194	\$691,449	\$693,675
Space Occupancy	<u>22,977</u>	<u>26,859</u>	<u>32,168</u>
Total Expenses	\$695,171	\$718,308	725,843
Net Income/(Loss)	<u>(\$499,025)</u>	<u>\$17,292</u>	<u>\$31,819</u>
Utilization (visits)	2,999	5,258	5,416
Cost per Visit	\$231.80	\$136.61	\$134.02

Budget observations:

- Medicare and Medicaid services are reimbursed on an episodic basis. The projected revenues for Year One are based on Shining Star's annualized revenues from October 1, 2017 through November 30, 2017. This amount was then increased by 3% for Year Three to account for inflation.
- All other revenue represents payments from other insurance payors including United Health Care, Fidelis, and HealthFirst. All other revenues are based on existing rates.
- The first and third year utilization projections are based on annualizing averages experienced during the October through November 2017 period (October at 429 visits, November at 430 visits).
- The applicant will continue to work with the local Department of Health including the New York City Department of Health and Mental Hygiene to target the special needs population they are certified to serve.
- Utilization by payor source to the submitted operating budget is as follows:

	<u>Current Year</u>		<u>Year One</u>		<u>Year Three</u>	
	Visits	%	Visits	%	Visits	%
Medicare	2,261	75.4%	3,882	73.8%	4,000	73.9%
Medicaid	243	8.1%	422	8.0%	435	8.0%
All Other	495	16.5%	850	16.2%	874	16.1%
Charity Care	<u>0</u>	<u>0%</u>	<u>104</u>	<u>2.0%</u>	<u>107</u>	<u>2.0%</u>
Total	2,999	100%	5,258	100%	5,416	100%

In its establishment application, the applicant committed to 2% Charity Care and 67% Medicaid utilization in Year One, and 2% Charity Care and 54% Medicaid utilization in Year Three. The applicant acknowledges that they did not fulfill that commitment. The decline in Medicaid utilization is attributed to lower than projected visits and a proportional increase in the number Medicare post-discharge hospital patients served by the agency.

To address the utilization issues and the financial results shown above, the applicant has identified Mr. Ari Goldberger as an individual who possesses home care experience and has been informally advising the operator regarding day-to-day operations and developing relationships with local hospitals and several Managed Care Organizations. The applicant indicated that they are realizing the benefit of Mr. Goldberger's experience and resources, and have begun to receive patient referrals. The applicant anticipates entering into a Consulting Agreement with Mr. Goldberger soon, and expects that Mr. Goldberger will become a majority owner.

The applicant cites the following recent activities as beneficial to the long-term performance of the facility: recently renegotiated various Managed Care contracts; increasing reimbursement; implementation of a new clinical software system; a partnership with Quality In Real Time; a partnership with Relias Learning for customized orientation and education curriculum; the creation of an advanced wound care program; hiring of a specialized case manager; and a partnership with a pharmacy to provide pre-packaged patient medication. Paul Rosenstock, M.D. and Robert Goodman, M.D. provide letters of support for the CHHAs mission. The applicant asserts that the requested extension will allow them to continue their mission.

Capability and Feasibility

There are no project costs associated with this application. To the extent necessary, the applicant members will provide equity from their personal resources to fund working capital.

The budget demonstrates net income in Year One and Year Three of \$17,292 and \$31,819, respectively. Year One projects a 75.3% increase in utilization over the Current Year (2016). As noted above, budgeted revenue and utilization projections were based upon actual results obtained during the two months of October and November 2017, expecting to build on the increased utilization reported for that period. The cost per visit is said to have declined 47% between the Current Year and 2017 annualized (going from \$232 in 2016 to \$157 in 2017). The budget expects a further decline to \$137 per visit or 15%.

The applicant projects an approximately 80% utilization increase from Current Year (2016) experience, the last year of cost report submitted data, presuming that increased visits it reports it provided during two months in late 2017 will continue and grow, while the applicant strives to reduce cost per visit. The projected budget appears unrealistic, especially based on historical experience during the CHHA's limited life. BFA Attachment C is a budget sensitivity analysis that incorporates actual patient days reported through December 20, 2017 annualized, while using the applicant's projected payer mix and expenses for the first year. Based upon this scenario, net profits would decline by \$173,500 going from \$17,292 in net income to a \$156,208 loss. For comparison, the internal financial summary for the ten months ending October 31, 2017, showed a net loss of \$211,594.

Working capital is estimated at \$119,719 based on two months of Year One expenses. However, as shown on BFA Attachments A and B, Shining Star's certified 2016 (draft) and internal 2017 financial statements as of October 31, 2017, the CHHA has been sustaining ongoing operating losses. Although they are projecting a small operating surplus going forward, the past losses and ongoing working capital needs must be funded for this agency to remain financially sustainable. The applicant has provided a letter of interest from New Capital Ventures, LLC expressing willingness to provide a personal loan to Mr. Yechiel Landau, a majority member of the applicant, in the amount of \$1,410,000 to be used to fund the agency's projected working capital needs. The letter states that this would be a personal loan between friends, with no interest charged and repayment of the principal amount to be provided whenever funds become available. Capital One bank statements for New Capital Ventures, LLC for the period ending September 30, 2017, indicates sufficient resources are available to fund this transaction. The applicant indicated that during its limited life, Mr. Landau has funded operating losses with his personal liquid

assets, as well as from the proceeds of other personal loans provided to him from Hiram Capital, LLC (an entity related to New Capital Ventures, LLC).

BFA Attachment A is the 2016 draft certified financial statements of Shining Star Home Care, LLC. As shown, the entity had a negative working capital position and a negative net asset position in 2016. Also, the entity demonstrated a net loss of \$488,717. BFA Attachment B provides the internal financial statements of Shining Star Home Care, LLC as of October 31, 2017. As shown, the entity had a negative working capital position and a negative net asset position and achieved a net loss of \$211,594 for the period shown. The applicant attributes the 2016 loss to low utilization, while results through October 2017 had improved based improved efficiency and increased utilization. The applicant asserts that its focus is on providing services to patients who required specialized services and, while they did not meet their utilization targets and their financial statements demonstrate the negative results referenced above, the applicant believes it achieved its primary mission of serving individuals at high-risk of ED visits and hospital readmission due to heart disease, stroke, and diabetes.

Conclusion

The applicant has failed to demonstrate financial feasibility during its limited life and its current Year One and Year Three utilization and financial projections appear very aggressive and unrealistic. A modest budget sensitivity analysis results in continued operational losses.

Recommendation

From a financial perspective, disapproval is recommended.

Attachments

BFA Attachment A	2015 Certified financial statement of Shining Star Home Care, LLC
BFA Attachment B	2016 Internal financial statement of Shining Star Home Care, LLC
BFA Attachment C	Budget Sensitivity Analysis

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: MLAP Acquisition III, LLC d/b/a Long Beach Home Care
Address: Long Beach
County: Nassau
Structure: Limited Liability Company
Application Number: 162315

Description of Project:

MLAP Acquisition III, LLC d/b/a Long Beach Home Care, 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 MLAP Acquisition III, LLC d/b/a Long Beach Assisted Living Program. The LHCSA and the ALP will have identical ownership.

The proposed membership of MLAP Acquisition III, LLC d/b/a Long Beach Home Care comprises the following individuals:

Michael Melnicke, Member/Manager – 25%

Affiliations:

- Park Nursing Home (NH, 1987-present)
- Rockaway Care Center (NH, 1992-present)
- Regency Extended Care Center (NH, 1993-present)
- Caton Park Rehabilitation and Nursing Center, LLC (NH, 1994-present)
- Hempstead Park Nursing Home (NH, 1998-present)
- Peninsula Nursing and Rehabilitation Center (NH, 2014-present)
- Providence Care Inc. d/b/a Brooklyn Gardens Nursing & Rehabilitation Center (NH, 2014-present)
- The Komanoff Center for Geriatric and Rehabilitative Medicine (nka Long Beach Nursing and Rehabilitation Center) (NH, 2014-present)
- Hendon Garden Center, LLC d/b/a Beach Gardens Rehabilitation & Nursing Center (NH, 2014-present)
- Regency Dialysis Center (ESRD, 2015-present)

Leopold Friedman, Member/Manager – 25%

Receiver/Operator, Peninsula Center for Extended Care and Rehabilitation

Owner/Operator, Advanced Care Staffing

Owner/Operator, Ultimate Care, Inc.

Affiliations:

- Cardiff Bay Center, LLC d/b/a Peninsula Nursing and Rehabilitation Center (NH, 1/2013-present)
- Hendon Garden Center, LLC d/b/a Beach Gardens Rehabilitation & Nursing Center (NH, 11/2014-present)
- Providence Care, Inc. d/b/a Brooklyn Gardens Nursing & Rehabilitation Center (NH, 9/2014-present)
- Highland View Care Center Operating Company, LLC d/b/a Citadel Rehabilitation and Nursing Center at Kingsbridge (NH, 2/2015-present)

- DeWitt Rehabilitation and Nursing Center, Inc. d/b/a Upper East Side Rehabilitation and Nursing Center (NH, 6/2015-present)
- Hudson Pointe Acquisition, LLC d/b/a Hudson Pointe at Riverdale Center for Nursing and Rehabilitation (NH, 6/2016-present)
- Ross Acquisition, LLC d/b/a Ross Center for Nursing and Rehabilitation (NH, 6/2016-present)
- MLAP Acquisition I, LLC, d/b/a Long Beach Nursing and Rehabilitation Center (NH, 8/2016-present)
- TCPRNC, LLC d/b/a The Plaza Rehabilitation and Nursing Center (NH, 9/2016-present)
- SBNH Acquisition, LLC d/b/a Bronx Gardens Rehabilitation and Nursing Center (NH, 11/3/2016-present)
- Peninsula Continuum Services, LLC, d/b/a Cassena Care Dialysis at Peninsula (ESRD, 11/2016-present)
- Ultimate Care, LLC (LHCSA, 2/2010-present)

Alex Solovey, PT, Member/Manager – 25%
 Director of Rehabilitation, Theradynamics
 Chief Operating Officer, Center for Nursing and Rehabilitation
 Director of Operations, Hillside Manor Rehabilitation and Extended Care Center, LLC d/b/a Hillside Manor Certified Home Health Agency

Affiliations:

- JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center (NH, 11/2003-present)
- PALJR, LLC d/b/a East Neck Nursing and Rehabilitation Center (NH, 2/2005-present)
- JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center (NH, 10/2010-present)
- JOPAL Sayville, LLC d/b/a Sayville Nursing and Rehabilitation Center (NH, 12/2012-present)
- JOPALS Bronx, LLC d/b/a Workmen's Circle MultiCare Center (NH, 7/2013-present)
- Shoreview Acquisition I, LLC d/b/a Shoreview Nursing and Rehabilitation Center (NH, 6/2014-present)
- Morningside Acquisition I, LLC d/b/a Morningside Nursing and Rehabilitation Center (NH, 7/2014-present)
- Cardiff Bay Center, LLC d/b/a Peninsula Nursing and Rehabilitation Center (NH, 8/2014-present)
- DeWitt Rehabilitation and Nursing Center, Inc. d/b/a Upper East Side Rehabilitation and Nursing Center (NH, 6/2015-present)
- Sea-Crest Acquisition I, LLC d/b/a Sea-Crest Nursing and Rehabilitation Center (NH, 7/2015-present)
- Terrace Acquisition II, LLC d/b/a Fordham Nursing and Rehabilitation Center (NH, 8/2016-present)
- MLAP Acquisition I, LLC, d/b/a Long Beach Nursing and Rehabilitation Center (NH, 8/2016-present)
- Mills Pond Dialysis Center, LLC d/b/a East Neck Dialysis Center (ESRD, 8/2015-present)
- Workmens Circle Dialysis Management, LLC d/b/a Workmens Circle Dialysis Center (ESRD, 8/2015-present)
- Peninsula Continuum Services, LLC, d/b/a Cassena Care Dialysis at Peninsula (ESRD, 11/2016-present)

- Norwalk Acquisition I, LLC d/b/a Cassena Care of Norwalk (Connecticut) (SNF, 7/2013-present)
- Stamford Acquisition I, LLC d/b/a Cassena Care at Stamford (Connecticut) (SNF, 2/2016-present)
- New Britain Acquisition I, LLC d/b/a Cassena Care at New Britain (Connecticut) (SNF, 2/2016-present)

Pasquale DeBenedictis, Member/Manager – 25%

Managing Member, Cassena Care, LLC

Chief Financial Officer, Center for Nursing and Rehabilitation

Controller, Hillside Manor Rehabilitation and Extended Care Center, LLC d/ba/ Hillside Manor

Certified Home Health Agency

Affiliations:

- JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center (NH, 11/2003-present)
- PALJR, LLC d/b/a East Neck Nursing and Rehabilitation Center (NH, 2/2005-present)
- JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center (NH, 10/2010-present)
- JOPAL Sayville, LLC d/b/a Sayville Nursing and Rehabilitation Center (NH, 12/2012-present)
- JOPALS Bronx, LLC d/b/a Workmen's Circle MultiCare Center (NH, 7/2013-present)
- Shoreview Acquisition I, LLC d/b/a Shoreview Nursing and Rehabilitation Center (NH, 6/2014-present)
- Morningside Acquisition I, LLC d/b/a Morningside Nursing and Rehabilitation Center (NH, 7/2014-present)
- Cardiff Bay Center, LLC d/b/a Peninsula Nursing and Rehabilitation Center (NH, 8/2014-present)
- DeWitt Rehabilitation and Nursing Center, Inc. d/b/a Upper East Side Rehabilitation and Nursing Center (NH, 6/2015-present)
- Sea-Crest Acquisition I, LLC d/b/a Sea-Crest Nursing and Rehabilitation Center (NH, 7/2015-present)
- Terrace Acquisition II, LLC d/b/a Fordham Nursing and Rehabilitation Center (NH, 8/2016-present)
- MLAP Acquisition I, LLC, d/b/a Long Beach Nursing and Rehabilitation Center (NH, 8/2016-present)
- Workmens Circle Dialysis Management, LLC d/b/a Workmens Circle Dialysis Center (ESRD, 8/2015-present)
- Mills Pond Dialysis Center, LLC d/b/a East Neck Dialysis Center (ESRD, 9/2015-present)
- Peninsula Continuum Services, LLC, d/b/a Cassena Care Dialysis at Peninsula (ESRD, 11/2016-present)
- Norwalk Acquisition I, LLC d/b/a Cassena Care of Norwalk (Connecticut) (SNF, 7/2013-present)
- Stamford Acquisition I, LLC d/b/a Cassena Care at Stamford (Connecticut) (SNF, 2/2016-present)
- New Britain Acquisition I, LLC d/b/a Cassena Care at New Britain (Connecticut) (SNF, 2/2016-present)

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

The Office of Professions of the State Education Department indicate no issues with the licensure of the health professional associated with this application.

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

- Caton Park Rehabilitation and Nursing Center, LLC (2010-present)
- Citadel Rehabilitation and Nursing Center at Kingsbridge (2015-present)
- Hempstead Park Nursing Home (2010-present)
- Hendon Garden Center, LLC d/b/a Beach Gardens Rehabilitation & Nursing Center (2014-present)
- JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center (2010-present)
- JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center (2010-present)
- PALJR, LLC d/b/a East Neck Nursing and Rehabilitation Center (2010-present)
- JOPAL Sayville, LLC d/b/a Sayville Nursing and Rehabilitation Center (2012-present)
- JOPALS Bronx, LLC d/b/a Workmen's Circle MultiCare Center (2013-present)
- Mills Pond Dialysis Center, LLC d/b/a East Neck Dialysis Center (2015-present)
- Morningside Nursing and Rehabilitation Center (2014-present)
- Park Nursing Home (2010-present)
- Peninsula Nursing and Rehabilitation Center (2013-present)
- Providence Care, Inc. d/b/a Brooklyn Gardens Nursing & Rehabilitation Center (2014-present)
- Regency Dialysis Center (2015-present)
- Regency Extended Care Center (2010-present)
- Rockaway Care Center (2010-present)
- Sea-Crest Nursing and Rehabilitation Center (2015-present)
- Shoreview Nursing and Rehabilitation Center (2014-present)
- The Komanoff Center for Geriatric and Rehabilitative Medicine (nka Long Beach Nursing and Rehabilitation Center) (2014-present)
- Ultimate Care, LLC (2010-present)
- Upper East Side Rehabilitation and Nursing Center (2015-present)
- Workmens Circle Dialysis Management, LLC d/b/a Workmens Circle Dialysis Center (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 Bureau of Quality and Surveillance has indicated that the following residential health care facilities have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations:

- Sea-Crest Nursing and Rehabilitation Center
- Morningside Nursing and Rehabilitation Center
- Shoreview Nursing and Rehabilitation Center
- JOPALS Bronx, LLC d/b/a Workmen's Circle MultiCare Center

- JOPAL Sayville, LLC d/b/a Sayville Nursing and Rehabilitation Center
- JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center
- Park Nursing Home
- Rockaway Care Center
- Regency Extended Care Center
- Caton Park Rehabilitation and Nursing Center, LLC
- Peninsula Nursing and Rehabilitation Center
- Providence Care, Inc. d/b/a Brooklyn Gardens Nursing & Rehabilitation Center
- The Komanoff Center for Geriatric and Rehabilitative Medicine
- Hendon Garden Center, LLC d/b/a Beach Gardens Rehabilitation & Nursing Center
- Upper East Side Rehabilitation and Nursing Center

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:

PALJR, LLC d/b/a East Neck Nursing and Rehabilitation Center was fined six thousand dollars (\$6,000) pursuant to a Stipulation and Order dated November 3, 2015 for findings on March 21, 2014 for violations IJ-Scope and Severity-L-Advance Directives. Deficiencies were found under 10 NYCRR 415.3(e)(1)(ii) Residents Rights: Right to Accept/Refuse Treatment, Right to Formulate, Advance Directives; 415.26 Administration; 415.27(a-c) Administration Quality: Assessment and Assurance.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated January 12, 2014 for findings on March 13, 2012. Violations include IJ past compliance, F-323-Free of Accidents and Hazards-K-resident eloped. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care: Accidents/Supervision. In addition, a federal Civil Monetary Penalty of \$3,250 was imposed and paid.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center was fined eighteen thousand dollars (\$18,000) pursuant to a Stipulation and Order dated November 3, 2015 for findings on February 1, 2013 and September 26, 2103. Violations include IJ-F-333-Significant Med Errors-K, F-490-Administration-K-IJ, F-520-QAA Committee-K-IJ, IJ-F 225 Investigate/Report/Allegations/Individuals-K-abuse by staff, F-309-Provide Care/Services for Highest Well Being-G. Deficiencies were found under 10 NYCRR 415.12(m)(2) Quality of Care: Significant Medication Errors; 415.26 Administration; 415.27(a-c) Quality Assurance; 415.4(b)(1)(2)(3) Free From Mistreatment Neglect and Misappropriation of Property; 415.12 Quality of Care: Highest Practicable Potential.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center paid a CMP of \$3,250 for Immediate Jeopardy on 3/13/12.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center paid a CMP of \$5,000 for Immediate Jeopardy on 2/1/13.

JOPAL, LLC d/b/a Barnwell Nursing & Rehabilitation Center paid a CMP of \$8,000 for Immediate Jeopardy on 9/26/13.

JOPAL at St. James d/b/a Mills Pond Nursing and Rehabilitation Center was fined \$10,000 pursuant to Stipulation and Order NH-17-050 issued September 18, 2017 for surveillance findings on July 12, 2017. Deficiencies were found under 10NYCRR 415.12(m)(2) Quality of Care: Medication Errors.

Hempstead Park Nursing Home was fined eight thousand dollars (\$8,000) pursuant to a Stipulation and Order dated December 16, 2011 for re-certification surveillance findings on

September 28, 2010. Immediate Jeopardy tags include 224-K, 225-K, 226-K, 250-K and 490-K. Deficiencies were found under 10 NYCRR 415.4(b) Mistreatment/Neglect: Policies and Procedures; 415.4(b)(1)(ii) Investigate/Report: Allegations; 415.5(g)(1)(i-xv) Medically Related Social Services; 415.26 Administration.

Hempstead Park Nursing Home had a Civil Monetary Penalty dated October 7, 2010 through November 26, 2010 in the amount of \$48,680. This payment status is pending appeal from the agency.

Highland View Care Center Operating Company, LLC d/b/a Citadel Rehabilitation and Nursing Center at Kingsbridge was fined four thousand dollars (\$4,000) pursuant to a Stipulation and Order dated November 29, 2016 for re-certification surveillance findings on August 1, 2016 with Immediate Jeopardy tags 323-K and 490-K. Deficiencies were found under 10 NYCRR 415.12(h)(1) Quality of Care Accident: Free Environment and 415.26 Administration.

Highland View Care Center Operating Company, LLC d/b/a Citadel Rehabilitation and Nursing Center at Kingsbridge paid a CMP of \$20,737.60 for the survey dated August 1, 2016.

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 Connecticut has indicated that Stamford Acquisition I, LLC d/b/a Cassena Care at Stamford has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

New Britain Acquisition I, LLC, d/b/a Cassena Care at New Britain is currently in compliance, but was subject to an enforcement based on a survey conducted from September 15, 2016 through October 28, 2016, citing violations in Quality of Care: Necessary Care and Services for Highest Practicable Well Being; Quality of Care: Accidents / Hazards / Environment / Supervision / Devices; and Quality of Care: Sufficient Fluid to Maintain Hydration. A state civil penalty of \$1,730 was imposed and paid, a federal Civil Monetary Penalty of \$17,821.05 was imposed and paid, and a federal prohibition was imposed on Nurse Aide Training and Competency Evaluation programs offered by, or in, the facility for the time period September 15, 2016 through September 14, 2018.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in September, 2013, citing violations in Quality of Care: Necessary Care and Services for Highest Practicable Well Being; and Quality of Care: Accidents / Hazards / Environment / Supervision / Devices. A state civil penalty of \$1020 was imposed and paid, and a federal Civil Monetary Penalty of \$7,850 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in October, 2013, citing violations in Quality of Care: Accidents / Hazards / Environment / Supervision / Devices. A state civil penalty of \$360 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in December, 2013, citing violations in Quality of Care: Accidents / Hazards / Environment / Supervision / Devices. A state civil penalty of \$1,160 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in February 2014, citing violations in Quality of Care: Necessary Care and Services for Highest Practicable Well Being; and Quality of Care: Pressure Sores. A state civil penalty of \$1,370 was imposed and paid, and a federal Civil Monetary Penalty of \$13,650 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in January, 2016, citing violations in Quality of Care: Accidents / Hazards / Environment / Supervision / Devices; and Resident Behavior and Facility Practice: Resident Abuse. A state civil penalty of \$3,000 was imposed and paid, and a federal Civil Monetary Penalty of \$6,500 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in March, 2016, citing violations in Quality of Care: Necessary Care and Services for Highest Practicable Well Being; and Resident Behavior and Facility Practice: Staff Treatment of Residents. Two separate state civil penalties of \$3,000 and \$2,370 were imposed and paid, and a federal Civil Monetary Penalty of \$8,750 was imposed and paid.

An enforcement action was taken against Cassena Care at Norwalk based on a survey conducted in September, 2016, citing violations in Quality of Care: Significant Medication Errors. A federal Civil Monetary Penalty of \$2,315.95 was imposed and paid.

The applicant proposes to serve the residents of the following counties from an office located at 375 East Bay Drive, Long Beach, New York 11561:

Nassau Suffolk

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
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

1. Submission of a copy of the operating agreement of the applicant, which is acceptable to the Department.
2. Submission of a copy of the Articles of Organization of the applicant, which are acceptable to the Department.
3. Submission of a copy of the Certificate of Assumed Name of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: November 2, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: PromptCare Home Infusion of New York, LLC
Address: Farmingdale
County: Nassau
Structure: Limited Liability Company
Application Number: 171276

Description of Project:

PromptCare Home Infusion of New York, 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.

PromptCare Home Infusion of New York, LLC was previously approved as a home care services agency by the Public Health Council at its May 4th, 2007 meeting and subsequently assigned license number 1481L001, effective December 6, 2007. A secondary location in Queens County was approved by the Public Health Council at its May 4, 2007 meeting and subsequently assigned license number 1481L002, effective February 23, 2001. Both locations are included in this transaction.

The purpose of this application is to seek approval for PC Infusion Investments, Inc., a Delaware corporation, to acquire PromptCare Home Infusion, LLC (the LHCSA's current parent company) through an Asset Purchase Agreement.

PromptCare Home Infusion of New York, LLC (LHCSA) is a wholly owned subsidiary of PromptCare Home Infusion, LLC (100% membership).

PromptCare Home Infusion, LLC is a wholly owned subsidiary of PC Infusion Investments, Inc. (100% membership).

PC Infusion Investments, Inc., has authorized 1,000 shares of stock, which are owned solely by PC Investment Holdings, LLC.

The Board of Directors of PC Infusion Investments, Inc. comprises the following individuals:

Brent Williams – Member
Senior Partner, The Halifax Group

Andrew Masetti – Member
CFO, The PromptCare Companies, Inc.

Scott Van Duinen – Member
Partner, The Halifax Group

Michael Marshall – Member
Senior Partner, CFO, CCO - The Halifax Group

Joseph Poliseo – Member
COO, The PromptCare Companies, Inc.

Christopher Cathcart – Member
Partner, The Halifax Group

Molly Fitzpatrick – Member
Vice-President, The Halifax Group

Kenneth Doyle – Member
Senior Partner, The Halifax Group

Scott Plumridge – Member
Partner, The Halifax Group

David Dupree – Member
Senior Partner & Founder, The Halifax Group

Thomas Voorhees – Member
President & CEO, The PromptCare Companies, Inc

Affiliations:

- Mountain Vista Medical Center, LP d/b/a Mountain Vista Medical Center - AZ
- St. Luke's Behavioral Hospital, LP d/b/a St. Luke's Behavioral Health Center - AZ (2015-present)
- St. Luke's Medical Center, LP d/b/a St. Luke's Medical Center - AZ (2016-present)
- St. Luke's Medical Center, LP d/b/a Tempe St. Luke's Hospital, a campus of St. Luke's Medical Center - AZ (2015-present)
- Brim Holding Company, Inc. d/b/a Wadley Regional Medical Center at Hope - AR (2017-present)
- Brim Healthcare of Colorado, LLC d/b/a Pikes Peak Regional Hospital - CO (2016-present)
- IASIS Glenwood Regional Medical Center, LP d/b/a Glenwood Regional Medical Center - LA (2017-present)
- Odessa Regional Hospital, LP d/b/a Odessa Regional Medical Center - TX (2016-present)
- Southwest General Hospital, LP d/b/a Southwest General Hospital - TX (2015-present)
- SJ Medical Center, LLC d/b/a St. Joseph's Medical Center – TX (2016-present)
- The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas – TX (2015-present)
- Brim Healthcare of Texas, LLC d/b/a Wadley Regional Medical Center – TX (2017-present)
- Jordan Valley Medical Center, LP d/b/a Jordan Valley Medical Center – UT (2016-present)
- Jordan Valley Medical Center, LP d/b/a Jordan Valley Medical Center, West Valley Campus – UT (2016-present)
- Jordan Valley Medical Center, LP d/b/a Mountain Point Medical Center, a campus of Jordan Valley Medical Center – UT (2016-present)
- Davis Hospital & Medical Center, LP d/b/a Davis Hospital & Medical Center – UT (2015-present)
- Salt Lake Regional Medical Center, LP d/b/a Salt Lake Regional Medical Center – UT (2015-present)

The members of the PC Investment Holdings, LLC comprises the following individuals and Limited Partnership:

Halifax Capital Partners III, L.P. – 97.76%	Lynn Allen – 0.7% (affidavit submitted, no Schedule 1)
Thomas Voorhees – 0.5% (Previously Disclosed)	Scott Lea – 0.5% (affidavit submitted, no Schedule 1)
Andrew Masetti – 0.1% (Previously Disclosed)	Randy Matthews – 0.2% (affidavit submitted, no Schedule 1)
Joseph Poliseo – 0.2% (Previously Disclosed)	

Halifax Capital Partners III, L.P. comprises 46 Limited Partners and Limited Partnership:

Halifax GenPar III, L.P. – 3.25%	46 Limited Partners
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The 46 Limited Partners above include individuals and private entities. No individual Limited Partner exceeds 10% of the fund. The Limited Partners do not have the right to vote on individual investments of Halifax Capital Partners III, L.P. Halifax Capital Partners III, L.P. is controlled by its General Partner: Halifax GenPar III, L.P.

Halifax GenPar III, L.P. comprises 6 Limited Partners and Limited Liability Company:

The Halifax Group, LLC

6 Limited Partners

None of the 6 individual Limited Partners exceed 2% of the total fund. The Limited Partners do not have the right to vote on individual investments of Halifax GenPar III, L.P. Halifax GenPar III, L.P. is controlled by its General Partner: The Halifax Group, LLC.

The membership of the The Halifax Group, LLC is comprised the following seven (7) individuals, 4 of which who are senior partners/investors and 3 partners who are non-investors:

David Dupree – 25%
Senior Partner & Founder, The Halifax Group

Scott Van Duinen – Member
Partner, The Halifax Group

Michael Marshall – 25%
Senior Partner, CFO, CCO - The Halifax Group

Christopher Cathcart – Member
Partner, The Halifax Group

Kenneth Doyle – 25%
Senior Partner, The Halifax Group

Scott Plumridge – Member
Partner, The Halifax Group

Brent Williams – 25%
Senior Partner, The Halifax Group

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

Applicants Thomas Voorhees and Joseph Poliseo both disclosed a civil action lawsuit pending against them involving Medicaid or Medicare issues. The Civil Lawsuit was filed in the New Jersey Court System in 2014 by plaintiffs Karina and Andrew Parise, former employees of PromptCare Home Infusion. The lawsuit is currently in the Discovery Phase.

The applicant proposes to continue to serve the residents of the following counties from the offices located at:

Address	Counties Served
217 Central Avenue, Suite B Farmingdale, New York 11735	Nassau, Dutchess, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, Westchester, Queens
217-04 Northern Blvd., Suite 7 Bayside, New York 11361	Queens, Kings, Bronx, New York, Richmond

The applicant proposes to continue to provide Nursing services.

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

Facility Name	State	Affiliation Dates
PromptCare Home Infusion of New York, LLC (LHCSA)	NY	
Mountain Vista Medical Center, LP d/b/a Mountain Vista Medical Center	AZ	
St. Luke's Behavioral Hospital, LP d/b/a St. Luke's Behavioral Health Center	AZ	(2015-present)
St. Luke's Medical Center, LP d/b/a St. Luke's Medical Center	AZ	(2016-present)
St. Luke's Medical Center, LP d/b/a Tempe St. Luke's Hospital, a campus of St. Luke's Medical Center	AZ	(2015-present)

Brim Holding Company, Inc. d/b/a Wadley Regional Medical Center at Hope	AR	(2017-present)
Brim Healthcare of Colorado, LLC d/b/a Pikes Peak Regional Hospital	CO	(2016-present)
IASIS Glenwood Regional Medical Center, LP d/b/a Glenwood Regional Medical Center	LA	(2017-present)
Odessa Regional Hospital, LP d/b/a Odessa Regional Medical Center	TX	(2016-present)
Southwest General Hospital, LP d/b/a Southwest General Hospital	TX	(2015-present)
SJ Medical Center, LLC d/b/a St. Joseph's Medical Center	TX	(2016-present)
The Medical Center of Southeast Texas, LP d/b/a The Medical Center of Southeast Texas	TX	(2015-present)
Brim Healthcare of Texas, LLC d/b/a Wadley Regional Medical Center	TX	(2017-present)
Jordan Valley Medical Center, LP d/b/a Jordan Valley Medical Center	UT	(2016-present)
Jordan Valley Medical Center, LP d/b/a Jordan Valley Medical Center, West Valley Campus	UT	(2016-present)
Jordan Valley Medical Center, LP d/b/a Mountain Point Medical Center, a campus of Jordan Valley Medical Center	UT	(2016-present)
Davis Hospital & Medical Center, LP d/b/a Davis Hospital & Medical Center	UT	(2015-present)
UT Salt Lake Regional Medical Center, LP d/b/a Salt Lake Regional Medical Center	UT	(2015-present)

The information received from the State of Arizona indicates the facilities listed above are currently in compliance and that no enforcement actions have been taken against the facilities.

The information received from the State of Colorado indicates the facility listed above is currently in compliance and that no enforcement actions have been taken against the facility between 2016 and present.

The information received from the State of Louisiana indicates the facility listed above is currently in compliance and that no enforcement actions have been taken against the facility between 2017 and present.

The information received from the State of Arkansas indicates that the facility listed above is currently in compliance and that no enforcement actions have been taken against the facility between 2017 and present.

The information received from the State of Utah indicates that the facilities listed above are currently in compliance and that no enforcement actions have been taken against the facilities between 2015 and present.

SJ Medical Center, LLC d/b/a St. Joseph's Medical Center was fined forty four thousand, five hundred and fifty dollars (\$44,550) pursuant to a stipulation and order dated March 4, 2016 for inspection findings of October 12-15, 2015 for violations of Texas Administrative Code (TAC) Chapter 133.41 Hospital Functions and Services (f) -Governing Body (4) – Medical Staff (l) – Policies and Procedures (7)-Services (g)-Infection Control (l) Mental Health Services (3) Compliance (B) – Rights of Persons Receiving Mental Health Services (E) – Interventions in Mental Health Programs (t)- Renal Dialysis Services (4)- Water Treatment and Dialysate Concentrates (C) -Dialysate (ii)- hemodialysis machine concentrates; Chapter 133.42 Patient Rights (j)- Medical Records Services (6) Written Orders (7) Verbal Orders; Chapter 133.47 Abuse and Neglect Issues (c) - Abuse and Neglect of individuals with Mental Illness (2) – Posting Requirements.

The information received from the State of Texas indicates the facilities listed above are currently in compliance and that no enforcement actions have been taken against any of the facilities.

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.

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

Recommendation: Approval
Date: October 30, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Caring People NY Operating, LLC
Address: Forest Hills
County: Queens
Structure: Limited Liability Company
Application Number: 171333

Description of Project:

Caring People NY Operating, 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.

Caring People, Inc. was previously approved as a home care services agency by the Public Health Council at its July 28, 2000 meeting and subsequently assigned license number 0949L001, effective November 2, 2001. A secondary location in Nassau County was approved by the Public Health Council at its July 28, 2000 meeting and subsequently assigned license number 0949L002, effective June 8, 2007. Both locations are included in this transaction.

Caring People NY Operating, LLC has proposed to enter into a management agreement with Caring People, Inc. which is currently under review by the Department of Health.

In this proposal, Silver Oak CP, LLC and Steven East propose to acquire the membership interests of Caring People, Inc.

The sole member of Caring People NY Operating, LLC is Caring People IntermediaryCoB, LLC. The sole member of Caring People IntermediaryCoB, LLC is Caring People Parent, LLC. The sole member of Caring People Parent, LLC is Caring People Parent Holdings, LLC. The sole member of Caring People Parent Holdings, LLC is Caring People HoldCo, LLC. The members of Caring People HoldCo, LLC are Silver Oak CP, LLC (60%) and Shalom East (40%).

The membership of Caring People NY Operating, LLC is comprised of the following individuals:

Shalom East – President
CEO, Home Star, LLC

Amerisa Kornblum – CFO
CFO, CP Employment Services Co., Inc.

Andrew Gustafson – Vice-President
Vice-President, Silver Oak Services
Partners, LLC

Gregory Barr – Manager
Managing Partner, Silver Oak Services
Partners, LLC

Affiliations

Caring People, LLC (LHCSA, Delray Beach FL)
Caring People of Pompano Beach, LLC (LHCSA, Pompano Beach, FL)
Caring People of Miami, LLC (Nurse Registry, FL)
Ultimate Angel's Home Health Care, Inc. (LHCSA, FL)
Amstaff Services Incorporated (LHCSA, Miami Lakes, FL)
Amstaff Services Incorporated (LHCSA, Pompano Beach, FL)
Caring People, Inc. (LHCSA, NY)
Caring People NJ Operating, LLC (Health Care Services Firm, NJ – 2 locations)
Caring People of NJ, LLC (Health Care Service Firm, NJ)
Caring People CT, LLC (Companion Care, CT)

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

Shalom East is exempt from a character and competence review due to the fact that he was previously approved by the Public Health Council for this Licensed Home Care Services Agency.

The applicant proposes to continue to serve the residents of the following counties from the indicated addresses:

Address	Counties Served
118-35 Queens Boulevard, Suite 1530 Forest Hills, New York 11375	Queens, Bronx, Kings, New York, Richmond, Westchester
175 Fulton Avenue Hempstead, New York 11550	Nassau, Suffolk, Rockland

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care Aide
Homemaker	Housekeeper	Medical Equipment, Supplies & Appliances

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

Caring People, LLC (LHCSA, Delray Beach FL)
 Caring People of Pompano Beach, LLC (LHCSA, Pompano Beach, FL)
 Caring People of Miami, LLC (Nurse Registry, FL)
 Ultimate Angel's Home Health Care, Inc. (LHCSA, FL 2014-present)
 Amstaff Services Incorporated (LHCSA, Miami Lakes, FL 2014-present)
 Amstaff Services Incorporated (LHCSA, Pompano Beach, FL 2014-present)
 Caring People, Inc. (LHCSA, NY)
 Caring People of NJ, LLC (Health Care Service Firm, NJ, 2010-present)
 Caring People NJ Operating, LLC (Health Care Services Firms, NJ, May 2017-present)
 Caring People CT, LLC (Companion Care, CT, April 2017-present)

The information received from the State of New Jersey indicates that the agencies noted above are currently in compliance and that no enforcement actions have been taken against the agencies.

The information received from the State of Connecticut indicates that the agency noted above is currently in compliance and that no enforcement actions have been taken against the agency.

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 all Florida agencies noted above are currently licensed and in compliance with all applicable federal and Florida regulations, with the exception of the following actions, all of which have been resolved:

Agency	Description	Fine	Resolution
Caring People, LLC	Reporting fine for late submission of mandatory report, 11/03/2011	\$5000	Fine paid and report filed
Caring People, LLC	Application fine for late license renewal, 07/09/2008	\$500	Fine paid and renewal filed
Caring People of Pompano Beach, LLC	Reporting fine for late submission of mandatory report, 12/14/2011	\$5000	Fine paid and report filed

Caring People of Pompano Beach, LLC	Application fine for late license renewal, 12/07/2010	\$500	Fine paid and renewal filed
Amstaff Services Incorporated	Application fine for late license renewal, 05/21/2015	\$500	Fine paid and renewal filed
Amstaff Services Incorporated	Survey fine for deficiency relating to background screenings, 12/18/2014	\$1500	Deficiency corrected and fine paid
Ultimate Angel's Home Health Care, Inc.	Fine for late submission of quarterly report, 10/13/2014	\$200	Report filed and fine paid

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.

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

1. Submission of a copy of the operating agreement of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: September 25, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: NY Home Care Select, LLC d/b/a Comfort Home Care
Address: Valley Stream
County: Nassau
Structure: Limited Liability Company
Application Number: 172061

Description of Project:

NY Home Care Select, LLC d/b/a Comfort 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.

Comfort Home Care, LLC was previously approved by the Public Health Council at its December 8, 2011 meeting and subsequently licensed as 1758L001 effective July 3, 2013. At that time the membership was as follows: Dawn V. Wickline - 50%, and Miriam Markowitz-Leonard – 50%.

Comfort Home Care, LLC has entered into a management agreement with NY Home Care Select, LLC which was approved by the Department of Health on August 7, 2017.

This application seeks Public Health and Health Planning Council approval for a change in ownership through an Asset Purchase Agreement.

The proposed members of NY Home Care Select, LLC d/b/a Comfort Home Care is comprised of the following individuals:

Murry Z. Englard, CPA – 50% membership
CEO, New York Health Care, Inc.
Accountant, Englard CPA, PC

Lisa Grossman – 50% membership
Accounts Receivable Manager, New York
Health Care, Inc.

Affiliation:

- New York Health Care, Inc.
(01/2007 – Present)

Affiliation:

- New York Health Care, Inc.
(02/2013 – Present)

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

The Office of the Professions of the State Education Department indicates no issue with the licensure of the professional associated with this application.

A seven (7) year review of the operations of the New York Health Care, Inc. (LHCSA) 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 33 West Hawthorne Avenue, Suite 33, Valley Stream, New York 11580:

- Nassau
- Westchester
- Queens
- Suffolk

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

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

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

Contingency

1. Submission of a copy of the operating agreement of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval

Date: November 2, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Blossom Home Care, LLC
Address: Astoria
County: Queens
Structure: Limited Liability Company
Application Number: 172124

Description of Project:

Blossom 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.

Sephardic Home Care Services, Inc. d/b/a Sephardic Nursing and Rehabilitation Center, a not-for-profit corporation, was previously approved by the Public Health and Health Planning Council at its June 7, 2012 meeting and subsequently licensed as 1977L001 effective June 26, 2013.

Sephardic Home Care Services, Inc. has entered into a management agreement with Blossom Home Care LLC which was approved by the Department of Health on May 11, 2017.

This application seeks Public Health and Health Planning Council approval for a 100% change in ownership through an Asset Purchase Agreement.

The following individuals are the proposed members of Blossom Home Care, LLC:

Abraham I. Sieger, NHA – 50 % Membership
Administrator, Regeis Care Center

Naftali (Nathan) Z. Brachfeld, NHA – 50 % Membership
Administrator, New York Center for Rehabilitation and Nursing

Affiliations:

- Genesis Health Services (2014 – Present)
- Premier Health Services (2011-2012)
- Regeis Care Center (2016 – Present)
- Baychester Services, LLC d/b/a Regeis@Home (08/2017 – Present)

Affiliations:

- Genesis Health Services (2014 – Present)
- Baychester Services, LLC d/b/a Regeis@Home (08/2017 – Present)

A search of the individuals and entities 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 Abraham I. Sieger NHA license number 04871 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 Professional Credentialing has indicated that Naftali Z. Brachfeld NHA license number 04720 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.

A review of the operations of the following facilities was performed as part of this review:

- | | | |
|---------------------------|-----------------|----------------|
| • Genesis Health Services | Dialysis Center | 2014 – Present |
| • Premier Health Services | Dialysis Center | 2011-2012 |
| • Regeis Care Center | SNF | 2016 – Present |

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

The information provided by the Division of 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.

Baychester Services, LLC d/b/a Regeis@Home was contingently approved at the August 2017 PHHPC meeting as a LHCSA. This agency is not included in the character and competence review because the transaction for licensure has not been completed at this time.

The applicant proposes to continue to serve the residents of the following counties from an office located at 26-13 21st Street, Astoria, New York 11102:

- Bronx
- Kings
- Nassau
- New York
- Queens
- Richmond

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

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

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

Recommendation: Approval
Date: October 19, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Passionate Home Care, LLC d/b/a LINK Home Care Service
Address: New York
County: New York
Structure: Limited Liability Company
Application Number: 172172

Description of Project:

Passionate Home Care, LLC d/b/a LINK Home Care Service, 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.

Senior Home Care, Inc., was previously approved by the Public Health Council at its June 3, 1993 meeting and subsequently licensed as 9388L001 effective February 27, 1995. Two additional LHCSA office locations were added thereafter; 9388L002 effective August 3, 1999 and 9388L003 effective March 29, 2001

This application seeks Public Health and Health Planning Council approval for a 100% change in ownership through a Purchase and Sale Agreement.

The following individuals are the proposed members of Passionate Home Care, LLC d/b/a LINK Home Care Service:

Neal Einhorn – 50% Membership
Managing Member, San Souci Rehabilitation and Nursing Center

Mark Friedman – 50% Membership
Managing Member, San Souci Rehabilitation and Nursing Center

Affiliations:

- San Souci Rehabilitation and Nursing Center (10/2009 – Present)
- The Willows at Ramapo Rehabilitation and Nursing Center (07/2012 – Present)
- Livingston Hills Nursing and Rehabilitation Center (05/2006 – 09/2013)

Affiliations:

- San Souci Rehabilitation and Nursing Center (10/2009 – Present)
- The Willows at Ramapo Rehabilitation and Nursing Center (07/2012 – Present)
- Livingston Hills Nursing and Rehabilitation Center (05/2006 – 09/2013)

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

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

- | | | |
|-----------------------------------------------------------|-----|-------------------|
| • San Souci Rehabilitation and Nursing Center | SNF | 10/2009 – Present |
| • The Willows at Ramapo Rehabilitation and Nursing Center | SNF | 07/2012 – Present |
| • Livingston Hills Nursing and Rehabilitation Center | SNF | 05/2006 – 09/2013 |

Sans Souci Rehabilitation and Nursing Center was fined ten thousand dollars (\$10,000) pursuant to a Stipulation and Order dated March 16, 2012 for surveillance findings on February 11, 2011. Deficiencies were found under 10 NYCRR 415.12(j) Quality of Care Hydration. (S/O #: NH-12-015)

Livingston Hills Nursing & Rehabilitation Center, LLC was fined two thousand dollars (\$2,000) pursuant to a Stipulation and Order dated March 12, 2012 for surveillance findings on September 15, 2010. Deficiencies were found under 10 NYCRR 415.12(c)(2) Quality of Care Pressure Sores. (S/O #: NH-12-013)

Livingston Hills Nursing & Rehabilitation Center, LLC was fined sixteen thousand dollars (\$16,000) pursuant to a Stipulation and Order dated April 20, 2012 for surveillance findings on February 7, 2011 and July 6, 2011. Deficiencies were found under 10 NYCRR 415.12(j) Quality of Care Hydration; 415.12(h)(1)(2) Quality of Care Accidents; 415.26 Administration; and 415.27(a-c) Quality Assurance. (S/O #: NH-12-025)

- A federal CMP of thirty-six thousand nine hundred dollars (\$36,900.00) was assessed for the February 7, 2011 and July 6, 2011 survey findings.

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 applicant proposes to continue to serve the residents of the following counties from the offices located at:

Address	Counties Served
305 West End Avenue New York, New York 10022	Bronx, Kings, Nassau, New York, Queens, Richmond
95 South Broadway, 4 th Floor White Plains, New York 10601	Bronx, Putnam, Rockland, Westchester
640 Oak Tree Road Palisades, New York 10964	Orange, Rockland, Ulster

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

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

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

Recommendation: Approval
Date: October 19, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Welcome Care, Inc.
Address: Brooklyn
County: New York
Structure: For-Profit Corporation
Application Number: 171242

Description of Project:

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

Welcome Care, Inc was previously approved as a home care services agency by the Public Health Council at its June 25, 1999 meeting and subsequently assigned license number 1222L001, effective April 15, 2003. At that time, Welcome Care, Inc. had authorized 200 shares of stock which were owned as follows:

Svetlana Yulchevskaya - 10 shares	Victor Rashkovich - 30 shares
Joseph Kleynerman - 30 shares	Karen Skalt - 30 shares
Unissued – 100 shares	

The applicant disclosed that in 2005, Welcome Care, Inc. underwent a stock transfer. Victor Rashkovich surrendered 30 shares of stock, leaving 130 shares unissued. In 2011, the 130 unissued stock were distributed changing the ownership as follows: Svetlana Yulchevskaya 40 shares, Joseph Kleynerman 80 shares, and Simon Skalt 80 shares.

The applicant also noted that in 2013, Welcome Care, Inc, underwent an additional stock transfer. Joseph Kleynerman sold his 80 shares to Svetlana Yulchevskaya. A stock sale agreement was executed, changing the shareholder composition to the following: Svetlana Yulchevskaya 120 shares and Simon Skalt 80 shares.

In this proposal, Welcome Care, Inc. is seeking approval of the undisclosed transfer of stock to Simon Skalt that occurred in 2011.

Welcome Care, Inc. has authorized 200 shares of stock which are owned as follows: Svetlana Yulchevskaya owns 120 shares and Simon Skalt owns 80 shares.

The Board of Directors of Welcome Care, Inc. will be comprised of the following individuals:

Simon Skalt – President CEO, Welcome Care, Inc.	Svetlana Yulchevskaya – Vice-President Secretary, Welcome Care, Inc.
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<u>Affiliation</u> Welcome Care, Inc. (LHCSA)	<u>Affiliation</u> Welcome Care, Inc. (LHCSA)
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A search of the individuals named above revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

Svetlana Yulchevskaya is exempt from character and competence review due to the fact that this individual was previously approved by the Public Health Council for this operator.

The applicant proposes to serve the residents of the following counties from an office located at 1090 Coney Island Avenue, 3rd Floor, Brooklyn, New York 11230:

Kings
Richmond

Queens
Nassau

New York

Bronx

The applicant proposes to provide the following health care services:

Nursing
Medical Equipment, Supplies & Appliances

Home Health Aide

Personal Care

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

Welcome Care, Inc. (LHCSA)

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.

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

1. A copy of the by-laws of the applicant, which is acceptable to the Department. (CSL)

Recommendation: Contingent Approval
Date: June 20, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: AZA Group Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 152031

Description of Project:

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

AZA Group Inc. has authorized 200 shares of stock, which are solely owned by Amy Monroe.

The Board of Directors of AZA Group Inc. is comprised of the following individual:

Amy Monroe, RN, Chairman/Director
RN/Director of Patient Services, Emanuel Services

The Office of the Professions of the State Education Department indicates no issues with the licenses of the healthcare 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 serve the residents of the following counties from an office located at 328 Senator Street, Brooklyn, New York 11220:

Kings	Queens	New York
Bronx	Richmond	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

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

1. Submission of a copy of the by-laws of the applicant, which are acceptable to the Department.

Recommendation: Contingent Approval
Date: November 1, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: VIPatient Home Care, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 152270

Description of Project:

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

The applicant has authorized 200 shares of stock. The shareholders comprise the following individuals: Elena Lokshin owns 100 shares and Irina Pastina owns 100 shares.

The Board of Directors of VIPatient Home Care, Inc. is comprised of the following individuals:

Elena Lokshin – CEO
Human Resources Manager,
Always Home Care, Inc.

Irina Pastina, HHA – Vice-President
Payroll Manager/Compliance Officer,
Always Home Care, Inc.

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

A search of the individual named above on the New York State Home Care Registry revealed that the individual is certified as a HHA and has no convictions or findings.

The applicant proposes to serve the residents of the following counties from an office located at 7714 Bay Parkway, Suite 7E, Brooklyn, New York 11214:

Kings

Queens

New York

The applicant proposes to provide the following health care services:

Nursing

Home Health Aide

Personal Care

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

1. Submission of a copy of the by-laws of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: January 2, 2018

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Santry Home Care, Inc.
d/b/a Visiting Angels
Address: Yonkers
County: Westchester
Structure: For-Profit Corporation
Application Number: 152293

Description of Project:

Santry Home Care, Inc. d/b/a Visiting Angels, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Santry Home Care, Inc. d/b/a Visiting Angels has proposed to operate as a Franchisee of Living Assistant Services, Inc.

The applicant has authorized 200 shares of stock. The shareholders comprise the following individuals: Patrick Murphy owns 100 shares and Barbara Murphy owns 100 shares.

The Board of Directors of Santry Home Care, Inc. d/b/a Visiting Angels is comprised of the following individuals:

Patrick Murphy – President
Unemployed

Barbara Murphy, RN – Vice-President
RN, Memorial Sloan Kettering Cancer Center

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

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

The applicant proposes to serve the residents of the following counties from an office located at 73 Market Street, Suite 376, Yonkers, New York 10710:

Westchester

Bronx

The applicant proposes to provide the following health care services:

Nursing
Homemaker

Home Health Aide
Housekeeper

Personal Care

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

1. Submission of a copy of the certificate of amendment to the certificate of incorporation of the applicant, which is acceptable to the Department.
2. Submission of A copy of the franchise agreement of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: October 30, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: K Homecare Corporation
Address: Little Neck
County: Queens
Structure: For-Profit Corporation
Application Number: 152315

Description of Project:

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

The applicant has authorized 200 shares of stock which are owned as follows:

Youngsoon Lee, RN – 200 Shares
Director of Patient Services, NU Home Care Corp.

The following individual is the sole member of the Board of Directors K Homecare Corporation:

Youngsoon Lee, RN – President
(Previously Disclosed)

The Office of the Professions of the State Education Department indicates no issues with the licensure of the health 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 41-31 Little Pkwy, 2nd Floor, Little Neck, NY 11363:

- Bronx
- Kings
- Nassau
- New York
- Queens
- Richmond

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

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

1. Submission of A copy of the amended by-laws of the applicant, acceptable to the Department.

Recommendation: Contingent Approval
Date: October 26, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Wellness Registered Nursing, P.C.
Address: Bronx
County: Bronx
Structure: For-Profit Corporation
Application Number: 152335

Description of Project:

Wellness Registered Nursing, P.C. a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 200 shares of stock which are owned as follows:

Theodora Kwarteng - 30 shares	Joyce Mwangi -10 shares
Ibrahim Mahmood – 10 shares	unissued – 150 shares

The Board of Directors of Wellness Registered Nursing, P.C. is comprised of the following individuals:

Theodora Kwarteng, RN – President RN, NY Presbyterian Hospital	Joyce Mwangi, RN – Vice-President RN, NY Presbyterian Hospital
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Ibrahim Mahmood, RT – Secretary
Respiratory Therapist - NY Presbyterian Hospital
Respiratory Therapist – St. Joseph’s Medical Center
Respiratory Therapist – Wayne Nursing Home

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

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

The applicant proposes to serve the residents of the following counties from an office located at 945 East 174th Street, Apt. 307, Bronx, New York 10460:

Bronx	New York
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The applicant proposes to provide the following health care services:

Nursing	Home Health Aide
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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

1. Submission of a copy of the amended by-laws of the applicant, acceptable to the Department.

Recommendation: Contingent Approval
Date: October 30, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: Reginald Aumoithe d/b/a Safe & Sound Nursing Care Agency
Address: Medford
County: Suffolk
Structure: Sole Proprietorship
Application Number: 152340

Description of Project:

Reginald Aumoithe d/b/a Safe & Sound Nursing Care Agency, a sole proprietorship, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Reginald Aumoithe, LPN – Sole Proprietor
LPN, Lewin Services, Inc.
LPN, Christian Nursing Registry
LPN, Total Healthcare Agency

The Office of the Professions of the State Education Department indicate no issues with the licensure of the health 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 2811 Watchill Avenue, Medford, NY 11763:

Nassau Suffolk Queens

The applicant proposes to provide the following health care services:

Nursing Home Health Aide

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

1. Submission of a copy of the amended by-laws of the applicant, acceptable to the Department.

Recommendation: Contingent Approval
Date: December 12, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: Life Improvement Homecare, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 152369

Description of Project:

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

The applicant has proposed to authorize 200 shares of stock which will be owned as follows:

Ning Chen – 60 Shares
Manager, Guangzhou Starzle Technologies Limited

Marcia Hu – 60 Shares
Brand Coordinator, COM New York

Affiliation:
• Wondercare, Inc. (01/2016-Present)

Affiliation:
• Wondercare, Inc. (01/2016-Present)

Feifei Li – 60 Shares
Training Manager, American Business Institute Corp.

Igor Rozhansky – 20 Shares
Optician, Euro Optika

The proposed Board of Directors of Life Improvement Homecare, Inc. comprises the following individuals:

Ning Chen – President
(Previously Disclosed)

Marcia Hu – Vice President
(Previously Disclosed)

Feifei Li – Vice President
(Previously Disclosed)

Igor Rozhansky – Member
(Previously Disclosed)

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

A review of the operations of the following facility was performed as part of this review:

- Wondercare, Inc. LHCSA 01/2016-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 applicant proposes to serve the residents of the following counties from an office located at 251 East 5th Street, Brooklyn, New York 11218:

- Bronx
- New York
- Kings
- Queens
- Nassau
- Richmond

The applicant proposes to provide the following health care services:

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

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

Recommendation: Approval
Date: October 26, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: Nurturing Angels Homecare, Inc.
Address: South Richmond Hill
County: Queens
Structure: For-Profit Corporation
Application Number: 152374

Description of Project:

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

The applicant has proposed to authorize 200 shares of stock which are owned as follows:

Mana Masih, RN – 190 Shares
President, Masih Home Care Incorporated

Janette Shtaynberg, HHA – 10 Shares
Home Health Aide, Helping Hands

Affiliation:

- Masih Home Care Incorporated license
(06/2016 – 08/2017)

Affiliation:

- JS Homecare Agency of NY, Inc.
(09/2013 – 01/2015)

The proposed Board of Directors of Nurturing Angels Homecare, Inc. comprises the following individuals:

Mana Masih, RN, NHA – President
(Previously Disclosed)

Janette Shtaynberg, HHA – Vice President
(Previously Disclosed)

The Office of the Professions of the State Education Department indicates no issue with the licensure of the health professional associated with this application.

A search of the individuals and entities 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 Mana Masih held a NHA license, license #05429, that expired on 12/31/2011. The Board of Examiners of Nursing Home Administrators never took disciplinary action against this individual or his license.

A search of the individual named above on the New York State Home Care Registry revealed that the individual is certified as a HHA, currently employed as a HHA and has no convictions or findings.

A review of the operations of the following facility was performed as part of this review:

- | | | |
|----------------------------------|-------|-------------------|
| • Masih Home Care Incorporated | LHCSA | 06/2016 – 08/2017 |
| • JS Homecare Agency of NY, Inc. | LHCSA | 09/2013 – 01/2015 |

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 serve the residents of the following counties from an office located at 94-36 114th Street, South Richmond Hill, New York 11419:

- | | | |
|------------|----------|------------|
| • Bronx | • Kings | • Nassau |
| • New York | • Queens | • Richmond |

The applicant proposes to provide the following health care services:

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

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

Recommendation: Approval
Date: November 8, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: HazMed Solution Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 152386

Description of Project:

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

HazMed Solution Inc. has authorized 200 shares which are owned solely by Amy L. Monroe, RN.

The Board of Directors of HazMed Solution Inc. is comprised of the following individual:

Amy L. Monroe, RN
Director of Patient Services, Emanuel Services

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

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

The applicant proposes to serve the residents of the following counties from an office located at 328 Senator Street, Brooklyn, New York 11220:

Queens	Kings	Richmond
New York	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

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

1. Submission of a copy of the by-laws of the applicant, which are acceptable to the Department.

Recommendation: Contingent Approval
Date: October 24, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review]

Name of Agency: Eprine Home Care, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 161011

Description of Project:

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

The applicant has authorized 200 shares of stock which are owned as follows:

Ernesto A. Pinder – 100 Shares President/CEO, Gloria B. Rose Center for Children, Inc. NYC Special Education School Improvement Specialist, Regional Special Education Technical Assistance Support Center	Luis Mota – 50 Shares Deputy Executive Director, Metropolitan Family Services, Inc. President/CEO, Eprine Community Services, Inc.
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Paul C. Allister – 50 Shares
Operations Associate, Highbridge Capital
Management

The Board of Directors of Eprine Home Care, Inc. comprises the following individuals:

Ernesto Pinder – President/CEO (Previously Disclosed)	Luis Mota – Vice President/COO (Previously Disclosed)
Paul C. Allister– Secretary/Treasurer/CFO (Previously Disclosed)	

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 61 Brandford Street, Brooklyn, New York 11207:

- Bronx
- New York
- Kings
- Queens
- Nassau
- Richmond

The applicant proposes to provide the following health care services:

- Nursing
- Medical Social Services
- Occupational Therapy
- Housekeeper
- Home Health Aide
- Physical Therapy
- Nutrition
- Personal Care
- Speech-Language Pathology
- Homemaker

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

1. Submission of a copy of the by-laws of the applicant, which are acceptable to the Department.

Recommendation: Contingent Approval
Date: October 19, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Executive Home Care, Inc d/b/a Z Best Home Care
Address: Staten Island
County: Richmond
Structure: For-Profit Corporation
Application Number: 161053

Description of Project:

Executive Home Care, Inc d/b/a Z Best Home Care, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Executive Home Care, Inc d/b/a Z Best Home Care has authorized 200 shares of stock which are owned solely by David Modnyy.

The Board of Directors of Executive Home Care, Inc d/b/a Z Best Home Care is comprised of the following individual:

David Modnyy – President
Owner/Administrator, Prestige LHCSA Management, Inc d/b/a Hand in Hand Together Home Care

Affiliation

Prestige LHCSA Management, Inc d/b/a Hand in Hand Together Home Care (LHCSA) (5/01/2015 – Present)

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 672 Britton Avenue, Staten Island, New York 10304:

Kings	Queens	Richmond
New York	Bronx	Westchester

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

A seven (7) year review of the operations of the following facility/agency was performed as a part of this review:

Prestige LHCSA Management d/b/a Hand in Hand Together Home Care (LHCSA) (5/2015 – 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

1. Submission of a copy of the by-laws of the applicant, which is acceptable to the Department.

Recommendation: Contingent Approval
Date: December 29, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Girgis Associates, Inc.
d/b/a ComForCare Home Care – Staten Island
Address: Staten Island
County: Richmond
Structure: For-Profit Corporation
Application Number: 161063

Description of Project:

Girgis Associates, Inc. d/b/a ComForCare Home Care – Staten Island, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Girgis Associates, Inc. d/b/a ComForCare Home Care – Staten Island has entered into a franchise agreement with ComForCare Health Care Holdings, Inc.

The applicant has authorized 200 shares of stock which are owned solely by Wagdy Girgis.

The Board of Directors of Girgis Associates, Inc. d/b/a ComForCare Home Care – Staten Island is comprised of the following individual:

Wagdy Girgis, MD – President
Owner, Girgis Associates, Inc. d/b/a ComForCare Home Care – Staten Island
Director of Wound Care & Hyperbaric Center, Maimonides Medical Center
Owner, Wagdy Girgis MD, PC

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

The Office of the Professions of the State Education Department, the New York State Physician Profile and the Office of Professional Medical Conduct, where appropriate, indicate no issues with the licensure of the health professional associated with this application.

The applicant has confirmed that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate.

The applicant answered yes to record of legal action and disclosed that a suit was brought against him in on June 21, 2005 by a patient for the development of decubitus ulcers. On January 8, 2015, a settlement in the amount of \$235,000 was reached and the suit was closed.

The applicant proposes to serve the residents of Richmond County from an office located at 1330 A. Rockland Avenue, Staten Island, New York 10314.

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
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

1. Submission of a copy of the by-laws of the applicant, which is acceptable to the Department.
2. Submission of a copy of the Franchise Agreement, acceptable to the Department.

Recommendation: Contingent Approval

Date: November 1, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Advent Homecare Agency Inc.
Address: Westbury
County: Nassau
Structure: For-Profit Corporation
Application Number: 161478

Description of Project:

Advent 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.

Advent Homecare Agency Inc. has authorized 1,000,000 shares of stock, which are owned as follows:

Dr. Lesly Kernisant owns 130,000 shares	Frantz Pierre-Louis owns 130,000 shares
Betzy Bazelais owns 127,500 shares	Serge R. Pinard owns 127,500 shares
Dr. Gardith Duroseau owns 2,500 shares	Geralda Jean Pelissier owns 3,333 shares

The remaining 479,167 shares are unissued.

The Board of Directors of Advent Homecare Agency Inc. is comprised of the following individuals:

Dr. Lesly Kernisant - President Retired Physician/OBGYN Chief Medical Officer, Brooklyn Plaza Medical Center	Serge Pinard - Vice President Certified Financial Planner NYS Life, Health, Variable Annuity and Variable Life Broker NYS FINRA NYS Real Estate Agent CFP Consultant, AXA Advisors LLC
Frantz Pierre-Louis, CPA, EA - Treasurer Managing Director, Pierre-Louis & Associates CPA, PC	Betzy Bazelais - Secretary NYS Health Insurance Agent/Broker NYS Property & Casualty Insurance Agent/Broker NYS Real Estate Agent CEO, Bazelais Agency
Geralda Jean Pelissier, NP, RN - Member NYS Registered Nurse & Nurse Practitioner Delaware State Registered Nurse & Nurse Practitioner Clinical Supervisor, Visiting Nurse Services of New York	

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: The Rock Home Care, Inc.
Address: Staten Island
County: Richmond
Structure: For-Profit Corporation
Application Number: 2589-L

Description of Project:

The Rock Home Care, Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 100 shares of stock which are owned as follows:

Halimattu M. Foday-Kakpa, RN – 1 share
Registered Nurse, Northwell Health

99 shares of stock remain unissued.

The following individual is the sole member of the Board of Directors of The Rock Home Care, Inc.:

Halimattu M. Foday-Kakpa, RN
(Previously Disclosed)

The Office of the Professions of the State Education Department indicates no issues with the licensure of the health 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 55 Bowen Street, Apt #325, Staten Island, New York 10304:

- Kings
- Richmond
- New York
- Queens

The applicant proposes to provide the following health care services:

- Nursing
- Medical Social Services
- Occupational Therapy
- Housekeeper
- Home Health Aide
- Respiratory Therapy
- Physical Therapy
- Homemaker
- Personal Care
- Speech-Language Pathology
- 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: November 8, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Exclusive Home Care Services, Inc.
Address: Rego Park
County: Queens
Structure: For-Profit Corporation
Application Number: 2591L

Description of Project:

Exclusive Home Care Services, Inc., a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The applicant has authorized 200 shares of common stock which are owned as follows:

Erick Gavriyelov, RN – 200 Shares
Intake Registered Nurse, Fidelis Care

The following individual is the sole member of Board of Directors of Exclusive Home Care Services, Inc.:

Erick Gavriyelov, RN - President
(Previously Disclosed)

The Office of the Professions of the State Education Department indicates no issues with the licensure of the health professional associated with this application.

A search of the individual (and entity as appropriate) 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 63-53 Haring Street, Suite 307, Rego Park, New York 11374:

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: June 20, 2017

Licensed Home Care Services Agency
Character and Competence Staff Review

Name of Agency: Igor Homecare, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 2535-L

Description of Project:

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

The applicant has authorized 200 shares of stock, which are owned as follows:

Igor Rozhansky – 180 Shares Natalya Chornaya, RN – 20 Shares

The Board of Directors of Igor Homecare, Inc. comprises the following individuals:

Igor Rozhansky – President Optician, Euro Optika

Natalya Chornaya, RN – Vice President Registered Nurse, Mount Sinai Beth Israel

Affiliation:

- MedPro Homecare Agency, Inc. (2016 – Present)
- NC Homecare Agency of NY, Inc. (August 2012 – Present)

The Office of the Professions of the State Education Department indicates no issues with the licensure of the health 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.

A review of the operations of the following facilities was performed as part of this review:

- MedPro Homecare Agency, Inc. (2016 – Present)
- NC Homecare Agency of NY, Inc. (August 2012 – 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 applicant proposes to serve the residents of the following counties from an office located at 251 East 5th Street, Brooklyn, New York 11218

Bronx	Kings	New York	Richmond
Queens	Westchester		

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	Durable Medical Supplies and Equipment	
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.

Recommendation: Approval
Date: December 27, 2017