



Project # 172230-E
St. Joseph's Hospital Health Center CHHA

Program: Certified Home Health Agency
Purpose: Establishment

County: Onondaga
Acknowledged: October 16, 2017

Executive Summary

Description

St. Joseph's Hospital Health Center (the Hospital) is a voluntary not-for-profit, Article 28 hospital located in Syracuse that operates the St. Joseph's Hospital Health Center Certified Home Health Agency (CHHA), an Article 36 CHHA located in Liverpool (Onondaga County). The Hospital requests approval for St. Joseph's Health, Inc. (SJHI) to be established as the CHHA's parent and Trinity Health Corporation (Trinity Health) to be established as the CHHA's grandparent, in accordance with Article 36 of the New York Public Health Law.

SJHI and the Hospital have mirror boards. SJHI's sole member is Trinity Health, an Indiana non-profit corporation located in Livonia, Michigan. Trinity Health is one of the largest multi-institutional Catholic health care delivery systems in the nation, serving people and communities in 22 states with 93 hospitals and 120 continuing care locations. SJHI and the Hospital became affiliated with Trinity Health when SJHI was formed on October 4, 2014.

This application will not result in any changes to:

- The powers the Hospital/CHHA Program currently reserve to SJHI or Trinity;
The Hospital's authorized services as an approved CHHA or the location for such services; and

- Utilization, revenues or expenses of the Hospital as a direct result of this project.

OPCHSM Recommendation

Contingent Approval

Need Summary

Establishing St. Joseph's Health, Inc as the parent and Trinity Health as the grandparent of the CHHA will not result in any changes to the services or counties being served or to the CHHA's operating certificate.

Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the members of the Board of Directors of St. Joseph's Health Inc. or Trinity Health Corporation, to adversely affect their positions with the organization. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary

There are no project costs or budgets associated with this application.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this project.

Office of Primary Care and Health Systems Management

Approval contingent upon:

1. Submission of a photocopy of the certificate of incorporation of the applicant, acceptable to the Department. [CSL]
2. Submission of a photocopy of the by-laws of the applicant, acceptable to the Department. [CSL]
3. Submission of a photocopy of the transfer agreement of the applicant, acceptable to the Department. [CSL]
4. Submission of a photocopy of the by-laws and certificate of incorporation of St. Joseph's Hospital Health Center, Inc., acceptable to the Department. [CSL]
5. Submission of a photocopy of the by-laws and certificate of incorporation of Trinity Health, Inc., 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

April 12, 2018

Need Analysis

Analysis

Approval of this application will have no immediate impact on the services provided nor will there be any change to the counties served by the CHHA. The services currently offered by St. Joseph's Hospital Health Center CHHA are: Home Health Aide, Medical Social Services, Medical Supplies Equipment and Appliances, Nursing, Nutritional, Therapy – Occupational, Therapy – Physical, Therapy – Respiratory, and Therapy – Speech Language Pathology. The CHHA serves patients in Cortland and Onondaga counties.

Conclusion

St. Joseph's Hospital Health Center CHHA is an existing CHHA that has established relationships with hospitals and other health providers in its service area, and has an existing patient base. The change in the controlling persons of the CHHA program will not result in any changes to the services being provided by the CHHA.

Recommendation

From a need perspective, approval is recommended.

Program Analysis

Program Description

St. Joseph's Hospital Health Center, a voluntary not-for-profit corporation, currently operates an Article 28 Hospital in Syracuse, New York, and an Article 36 Certified Home Health Agency (CHHA) in Liverpool, New York. The current proposal is to establish St. Joseph's Health, Inc., a New York State voluntary not-for-profit corporation located in Syracuse, New York, and its sole member (parent) corporation Trinity Health Corporation, an Indiana voluntary not-for-profit corporation located in Livonia, Michigan, as the sole member (parent) corporation and grand-member (grandparent) corporation, respectively, of the CHHA.

St. Joseph's Hospital Health Center CHHA is currently approved to serve Cortland and Onondaga Counties, and is authorized for the services of Home Health Aide, Medical Social Services, Medical Supplies/Equipment/Appliances, Nursing, Nutritional Services, Therapy-Occupational, Therapy-Physical, Therapy-Respiratory, and Therapy-Speech Language Pathology. The CHHA will remain at its sole practice location office at 7246 Janus Park Drive, Liverpool, New York 13088. The legal entity / corporate operator, St. Joseph's Hospital Health Center, will remain at 301 Prospect Avenue, Syracuse, New York 13203.

The corporate organizational structure of St. Joseph's Hospital Health Center, the operator of the CHHA, includes Iroquois Nursing Home, Inc. (RHCF), over which St. Joseph's Hospital Health Center has control. (see Programmatic Attachment A – St. Joseph's Hospital Health Center Organizational Structure). The following providers are therefore affiliated with each board member of St. Joseph's Hospital Health Center named below, and each facility and provider was reviewed:

- St. Joseph's Hospital Health Center (Hospital)
- St. Joseph's North Ambulatory Surgery Center (ASC)
- St. Joseph's Northeast Ambulatory Surgery Center (ASC)
- St. Joseph's Hospital Health Center CHHA (CHHA)
- Iroquois Nursing Home, Inc. (RHCF)
- PACE CNY (PACE)

The corporate organizational structure of St. Joseph's Health, Inc., the proposed member (parent) corporation, includes Franciscan Health Support, Inc. (LHCSA) and Oswego Health Home Care, LLC (CHHA), over which St. Joseph's Health, Inc., has control. (see Programmatic Attachment B – St. Joseph's Health, Inc., Organizational Structure). The following providers are therefore affiliated with each board member of St. Joseph's Health, Inc. named below, and each additional facility and provider was reviewed:

- Oswego Health Home Care, LLC (CHHA)
- Franciscan Health Support, Inc. (LHCSA)

The corporate organizational structure of Trinity Health Corporation, the proposed grand-member (grandparent) corporation, includes additional health care providers located in New York State, over which Trinity Health Corporation has control. (see Programmatic Attachment C, Pages 1 through 4 – Trinity Health Providers / Facilities Within NYS). The following providers are therefore affiliated with each board member of Trinity Health Corporation named below, and each additional facility and provider was reviewed:

St. Peter's Health Partners (Capital Region)

- St. Peter's Hospital (Hospital)
- Albany Memorial Hospital (Hospital)
- Samaritan Hospital (Hospital)
- Seton Health System, Inc., d/b/a St. Mary's Hospital, Troy (Hospital)
- Sunnyview Hospital and Rehabilitation Center (Hospital)
- St. Peter's Ambulatory Surgery Center, LLC (ASC)
- Villa Mary Immaculate, d/b/a St. Peter's Nursing and Rehabilitation Center (RHCF)
- Our Lady of Mercy Life Center (RHCF)
- Seton Health at Schuyler Ridge Residential Health Care (RHCF)
- The James A. Eddy Memorial Geriatric Center, Inc. (RHCF and ACF/EH)
- The Capital Region Geriatric Center, Inc., d/b/a Eddy Village Green (RHCF)
- Beverwyck, Inc., d/b/a Eddy Village Green at Beverwyck (RHCF and ACF/EH)
- Heritage House Nursing Center, Inc., d/b/a Eddy Heritage House Nursing and Rehab Center (RHCF)
- The Community Hospice, Inc. (Hospice)
- Home Aide Service of Eastern New York, Inc., d/b/a Eddy Visiting Nurse and Rehab Association (CHHA)
- Eddy Licensed Home Care Agency, Inc. (LHCSA)
- Senior Care Connection, Inc., d/b/a Eddy SeniorCare (PACE)
- Glen at Highland Meadows, Inc., d/b/a The Terrace at the Glen (ACF/EH)
- The Marjorie Doyle Rockwell Center, Inc. (ACF)
- Glen Eddy, Inc. (ACF/EH)
- Hawthorne Ridge, Inc. (ACF)

Catholic Health System, Inc. (Western New York)

- Sisters of Charity Hospital (Hospital)
- Kenmore Mercy Hospital (Hospital)
- Mount St. Mary's Hospital (Hospital)
- Mercy Hospital of Buffalo (Hospital)
- Mercy Hospital Skilled Nursing Facility (RHCF)
- Father Baker Manor (RHCF)
- McAuley Residence (RHCF)
- McAuley – Seton Home Care Corporation (CHHA)
- Niagara Homemaker Services, Inc. d/b/a Mercy Home Care of Western New York (LHCSA)
- Catholic Health System Program of All-inclusive Care for the Elderly, Inc. (PACE)
- CHS LIFE (PACE)

In addition, the corporate organizational structure of Trinity Health Corporation also includes over 93 hospitals and 120 community care health care facilities and providers located in 21 additional states, over which Trinity Health Corporation has control. The complete list of the affiliated out-of-state health care facilities and providers by state, identifying name, location, and provider type, has been included in the application and a copy is attached (see Programmatic Attachment D, Pages 1 through 6 – Trinity Health Providers / Facilities Outside NYS). All facilities and providers listed in Programmatic Attachment D are therefore affiliated with each board member of Trinity Health Corporation named below, and compliance requests were requested from each state for each facility and provider.

The Board of Directors of both the applicant, St. Joseph's Hospital Health Center, and its proposed member (parent) corporation, St. Joseph's Health, Inc., are identical.

St. Joseph's Health, Inc.

Vincent P. Sweeney, Chairperson, lists current employment as President, Syracuse Office Environments (Workplace Furniture Sales, Service, Installation, and Design).

Pawan K. Rao, MD, Vice-Chairperson, is currently licensed / registered in New York State as a Physician, listing current employment as Vice President, Nephrology Hypertension Associates of CNY, PC (Physicians Practice), and Medical Director, St. Joseph's Dialysis Program (ESRD Dialysis D&TC). Dr. Rao discloses the following additional affiliation:

- St. Joseph's Dialysis Program (ESRD Dialysis D&TC) - 5% ownership interest

Lowell A. Seifter, Esq. Secretary, is currently licensed / registered in New York State as an Attorney, listing current employment as General Counsel, St. Joseph's Hospital Health Center. A current Certificate of Good Standing was submitted with the application.

Santo M. DiFino, MD, Treasurer, is currently licensed / registered in New York State as a Physician, listing current employment as Physician/Oncologist/Hematologist, Hematology / Oncology Associates of CNY (Physicians Practice). Dr. DiFino also discloses he receives a stipend as Chairman of the Department of Medicine at St. Joseph's Hospital Health Center.

Leslie Paul Luke, President and Chief Executive Officer, lists current employment as President and Chief Executive Officer, St. Joseph's Health, Inc.

Craig M. Boise, Esq., is currently licensed, but registration is inactive, in both New York State and Ohio as an Attorney, listing current employment as Dean and Professor of Law, Syracuse University College of Law. Mr. Boise does not currently practice law.

Sister Helen Marie Burns, RSM, is currently Retired, listing former employment as Vice President of Mission Integration, Mount Aloysius College in Pennsylvania.

James P. Cotelingam, lists current employment as Senior Vice President for Strategy, Trinity Health Corporation.

Michael F. Meath, lists current employment as Assistant Professor, Syracuse University, and as Owner / Founder, Fallingbrook Associates, LLC (Consulting Firm).

John D. Marshall, CPA, is currently licensed / registered in New York State as a Certified Public Accountant, who lists current employment as Partner and Senior Counsel, Bonadio & Co., LLP (Accounting, Auditing, Finance Management, Business Advisory, and Tax Planning Firm).

Gina M. Myers, PhD, RN, is currently licensed / registered in New York State as a Nurse, who lists current employment as Adjunct Professor, LeMoyne College Department of Nursing and SUNY IT School of Nursing and Health Systems, and Research Consultant and Per Diem RN, St. Joseph's Hospital Health Center. Ms. Myers discloses the following additional affiliation:

- St. Joseph's College of Nursing

Sister Kathleen Osbelt, lists current employment as Founder / Executive Director / Director of Mission Outreach, Francis House, Inc. (End-of-Life Boarding Home).

Merriette C. Pollard, is currently Retired, listing former employment as Executive Director, Dunbar Association, Inc. (Not for Profit Community and Human Service Organization).

William H. Roberts, MD, is currently licensed, but is not registered, in New York State as a Physician. Dr. Roberts is currently retired since 2009, listing former employment as Physician, Syracuse Urology Associates, PC (Physicians Practice). Dr. Roberts no longer practices Medicine. Dr. Roberts discloses that in 2011, a former patient of Syracuse Urology Associates, PC, filed a civil malpractice suit against the practice, which was settled in 2015 with a total settlement of \$875,000. Dr. Roberts paid \$437,500, and his former practice partner Dr. Kendrick paid the remaining \$437,500.

Paul G. Tremont, lists current employment as President and Chief Executive Officer, SRC, Inc. (Not for Profit Research and Development corporation).

The Board of Directors of the proposed grand-member (grandparent) corporation, Trinity Health Corporation, is as follows:

Trinity Health Corporation

James D. Bentley, PhD, Chairperson, is currently Retired, listing former employment as Senior Vice President for Strategic Policy Planning, American Hospital Association (National Health Care Provider Association).

Mary Catherine Karl, Vice-Chairperson, CPA, is currently licensed / registered in Florida as a Certified Public Accountant. Ms. Karl is currently Retired, and discloses the following additional affiliations:

- BayCare Health System, Clearwater, FL
- St. Anthony's Hospital, St. Petersburg, FL
- Surgical Safety Institute, Tampa, FL

Paul G. Neumann, Esq., Secretary, is currently licensed / registered in Michigan, Colorado, and California as an Attorney, listing current employment as Executive Vice President and General Counsel, Trinity Health Corporation.

Cynthia A. Clemence, Treasurer, CPA, is currently licensed / registered in Michigan as a Certified Public Accountant, listing current employment as Interim Chief Financial Officer and Treasurer, Trinity Health Corporation.

Richard J. Gilfillan, MD, President and Chief Executive Officer, was formerly licensed and registered in New Jersey as a Physician within the previous ten years, and in Minnesota as a Physician prior to that, but is no longer licensed or registered, as he no longer practices Medicine. Dr. Gilfillan lists current employment as President and Chief Executive Officer, Trinity Health Corporation.

Kevin P. Barnett, lists current employment as Senior Investigator, Public Health Institute (Not for Profit Public Health Research, Policy, and Advocacy Organization).

Joseph R. Betancourt, MD, is currently licensed / registered in Massachusetts as a Physician, who lists current employment as Physician and Director of Disparities Solutions Center, Massachusetts General Hospital, and as President, Co-Founder, Owner, Quality Interactions, Inc. (Healthcare Workforce Training). Dr. Betancourt discloses the following additional affiliation:

- Neighborhood Health Plan, Boston, MA (Health Insurance)

Melanie C. Dreher, PhD, RN, is currently licensed, but no longer registered, in New York State, Massachusetts, and Iowa as a Nurse, and is currently licensed and registered in Illinois as a Nurse. Ms. Dreher is currently Retired, listing former employment as Dean, College of Nursing, Rush University Medical Center in Chicago. Ms. Dreher discloses the following additional affiliation:

- Wellmark, Des Moines, IA (Health Insurance)

Mary M. Fanning, RSM, is currently Retired, listing former employment as Assistant Professor of Business and Economics, Notre Dame of Maryland University. Sister Fanning discloses the following additional affiliation:

- Mercy Health Services, Baltimore, MD

George M. Philip, Esq., is currently licensed / registered in New York State as an Attorney. Mr. Philip is currently Retired, listing former employment as President, SUNY University at Albany. Mr. Philip discloses the following additional affiliation:

- St. Peter's Hospital, Albany, NY

Sister Kathleen M. Popko, SP, RN, is currently licensed, but no longer registered, in Massachusetts as a Nurse, listing current employment as President, Sisters of Providence (Religious Order). Sr. Popko discloses the following additional affiliations:

- Sisters of Providence Health System, Springfield, MA
- Saint Joseph of the Pines, Inc., Southern Pines, NC
- Mary's Meadow of Providence Place, Holyoke, MA

David N. Southwell, is currently Retired, listing former employment as Chief Financial Officer, Wellmark Blue Cross and Blue Shield, Iowa.

Sister Joan Marie Steadman, CSC, lists current employment as Executive Director, Leadership Conference of Women Religious. Sr. Steadman discloses the following additional affiliations:

- Loyola University Medical Center, Chicago, IL
- Gottlieb Memorial Hospital, Chicago, IL
- O'Connor Hospital, San Jose, CA
- Saint Louise Regional Hospital, Morgan Hill, CA
- Seton Medical Center, Daly City, CA
- Saint Agnes Medical Center, Fresno, CA
- Hospice of the Valley, San Jose, CA

Roberta L. Waite, EdD, is currently licensed / registered in Pennsylvania as both a Registered Nurse, and a Cosmetology Teacher, who lists current employment as Assistant Dean and Professor, Drexel University.

Larry Warren, is currently Retired, listing former employment as Interim Chief Executive Officer, Howard University Hospital, and Chief Executive Officer, University of Michigan Hospital.

Linda J. Werthman, RSM, LMSW, is currently licensed / registered in Michigan as a Licensed Masters Social Worker. Sister Werthman is currently Retired from the Institute of the Sisters of Mercy of the Americas, and is also currently employed as Adjunct Associate Professor of Social Work / Field Liaison, University of Detroit Mercy.

The applicant has confirmed that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, and with the consultation of legal counsel, it is concluded that proceeding with the proposal is appropriate.

A search of all the above-named board members, employers, and affiliations revealed no matches on either the Medicaid Disqualified Provider List or the Office of the Inspector General's Provider Exclusion List.

The NYS Education Department's Office of the Professions, NYSDOH Office of Professional Medical Conduct, NYSDOH Physician Profile, NYS Unified Court System, Massachusetts Board of Nursing, Massachusetts Board of Registration in Medicine, New Jersey Office of the Attorney General Division of Consumer Affairs, Minnesota Board of Medical Practice, Pennsylvania Board of Nursing, Pennsylvania Board of Cosmetology, Pennsylvania Department of State Licensing Verification, Iowa Board of Nursing, Illinois Board of Nursing, Michigan Department of Licensing and Regulatory Affairs, Michigan Attorney

Discipline Board, State Bar of Michigan, Michigan Board of Social Work, Colorado Supreme Court Office of Attorney Regulation Counsel, State Bar of California, Florida Department of Business and Professional Regulation, and Supreme Court of Ohio Attorney Search have all indicated that there are no adverse findings, or disciplinary actions or issues, regarding the licensure of the health professionals and other licensed professionals associated with this application. We have received current Certificates of Good Standing for all the currently licensed / registered and practicing attorneys listed above.

Facility Compliance / Enforcement

The Board of Directors of the applicant, St. Joseph's Hospital Health Center, have disclosed the following statement regarding St. Joseph's Hospital Health Center with their Schedule 2A disclosure forms:

"The following provides the relevant details pertaining to the affirmative answers to question 6.(11)(c) Have you ever been an officer, director, trustee, member, manager, partner, management employee, or stockholder of a company, including the applicant company, where you occupied any such position or served in any such capacity, wherein the company was the subject of an investigation by either federal or state law enforcement agencies on issues related to Medicare or Medicaid fraud?:

With respect to investigations by Federal/State law enforcement agencies on issues related to Medicare or Medicaid fraud (not including self-disclosures): On June 4, 2016, the United States Attorney's office for the Northern District of New York filed a Civil Investigation Demand as a result of the complaint of a qui tam relator. The result of the investigation was that the Hospital entered into a Settlement Agreement with the Federal and State Governments on or about August 1, 2016. In that Settlement, the Hospital accepted responsibility for (1) submitting claims to Medicaid as if one member of the CPEP Professional Staff, as defined in the Regulations, was present for all Mobil Crisis Outreach visits when in actuality that was not the case; and (2) because the Regulations require one member of the CPEP Professional Staff to be present for all Mobil Crisis Outreach visits, the Hospital's bills to Medicaid for those visits were not in compliance with the law. The Hospital paid \$3,200,000 in full settlement of this claim."

In addition, Catholic Health System, Inc. (Western New York), a subsidiary of Trinity Health Corporation, discloses the following statement in a Request for Additional Information response:

"Trinity is one of three members of Catholic Health System, Inc. (Buffalo). Please note that a Corporate Integrity Agreement ("CIA") between Catholic Health System, Inc., Home & Community Based Care ("Catholic Health") and the Office of Inspector General of the Department of Health and Human Services ("OIG") was entered into on October 19, 2017. The CIA applies specifically to two sub-acute rehabilitation facilities, Father Baker Manor and McAuley Residence and is in effect for five years. During these five years, an Independent Review Organization will review billing claims for medical necessity and provide a therapy systems review, reporting results of these reviews to the OIG. In addition to Catholic Health's Compliance Officer and Compliance Committee oversight, key managers will certify annually that their departments are in compliance with federal health care program requirements and the CIA."

The NYS Department of Health Division of Hospitals and Diagnostic and Treatment Centers has reviewed the compliance histories of the affiliated Hospitals and Ambulatory Surgery Centers for the time-period 2011 through 2018, and reports as follows:

An enforcement action was taken against St. Joseph's Hospital Health Center (Hospital) in September 2012, based on a survey completed in August 2010, for an incident relating to a patient's fall. A civil penalty in the amount of \$22,000 was imposed and paid.

An Immediate Jeopardy situation in Infection Control was identified at St. Joseph's Hospital Health Center (Hospital) in September 2013, but was ultimately not enforced.

An enforcement action was taken against St. Peter's Hospital (Hospital) in August 2016, based on a survey completed in January 2016, for an Immediate Jeopardy situation in Food and Dietetic Services. A civil penalty in the amount of \$2000 was imposed and paid.

An Immediate Jeopardy situation in Infection Control was identified at Mercy Hospital of Buffalo (Hospital) in January 2013, but was ultimately not enforced.

The NYS Department of Health Division of Hospitals and Diagnostic and Treatment Centers reported that during the time-period 2011 to 2018, the remaining affiliated Hospitals and Ambulatory Surgery Centers have no histories of enforcement action taken.

The NYS Department of Health Division of Nursing Homes and Intermediate Care Facilities/IID has reviewed the compliance histories of the affiliated Nursing Homes for the time-period 2011 to 2018, and reports as follows:

An enforcement action was taken against Capital Region Geriatric Center, Inc., d/b/a Eddy Village Green (RHCF) in March 2017, based on a survey completed on August 17, 2016, citing a violation in 10 NYCRR 415.12 Quality of Care: Highest Practicable Potential. A state civil penalty in the amount of \$2000 was imposed and paid. In addition, a federal Civil Monetary Penalty of \$3963 was imposed and paid.

An enforcement action was taken against Iroquois Nursing Home, Inc. (RHCF) in January 2017, based on a survey completed on April 13, 2016, citing Immediate Jeopardy and violations in 10 NYCRR 415.4(b) Staff Treatment of Residents: Free from Mistreatment, Neglect, and Misappropriation of Property; 415.4(b) Staff Treatment of Residents: Policy and Procedure Manual Development Regarding Staff Treatment of Residents; 415.4(b)(1)(i) Abuse: Verbal, Sexual, Physical, Mental, Corporal Punishment, and Involuntary Seclusion; and 415.26 Administration. A state civil penalty in the amount of \$16,000 was imposed and paid. No federal Civil Monetary Penalty was imposed.

The NYS Department of Health Division of Nursing Homes and Intermediate Care Facilities/IID reported that during the time-period 2011 to 2018, the remaining affiliated Nursing Homes have no histories of enforcement action taken.

The NYS Department of Health Division of Home and Community Based Services reviewed the compliance histories of the affiliated Certified Home Health Agencies, Licensed Home Care Services Agencies, and Hospice, for the time-period 2011 to 2018, and reports as follows:

An enforcement action was taken against McAuley – Seton Home Care Corporation (CHHA) in June 2013, based on a survey completed on September 15, 2011, citing violations in 10 NYCRR 763.11(b) Governing Authority; 763.5(a) Patient Referral, Admission, and Discharge; 763.6(b) Patient Assessment and Plan of Care; 763.6(c) Patient Assessment and Plan of Care; and 763.7(a) Clinical Records. A civil penalty in the amount of \$5500 was imposed and paid.

The NYS Department of Health Division of Home and Community Based Services reported that during the time-period 2011 to 2018, the remaining affiliated Certified Home Health Agencies, Licensed Home Care Services Agencies, and Hospice have no histories of enforcement action taken.

The NYS Department of Health Division of Adult Care Facilities and Assisted Living Programs reviewed the compliance histories of the affiliated Adult Care Facilities/Assisted Living Programs and Enriched Housing Programs, for the time-period 2011 to 2018, and reports as follows:

An enforcement action was taken against Hawthorne Ridge, Inc. (ACF) in March 2012, based on an inspection completed on September 14, 2010, citing a violation in 18 NYCRR 486.5(a)(4)(iii) Systemic Endangerment. A civil penalty in the amount of \$1000 was imposed and paid.

The NYS Department of Health Division of Adult Care Facilities and Assisted Living Programs reported that during the time-period 2011 to 2018, the remaining affiliated Adult Care Facilities/Assisted Living Programs and Enriched Housing Programs have no histories of enforcement action taken.

The NYS Department of Health Office of Health Insurance Programs, Bureau of Managed Long Term Care, reviewed the compliance histories of the affiliated PACE / LIFE Programs for the time-period 2011 to 2018, and reported that during that time-period, the affiliated PACE / LIFE Programs have all remained in compliance with no histories of enforcement action taken.

Out-of-state compliance requests were sent to all the states identified in Programmatic Attachment D, Pages 1 through 6 – Trinity Health Providers / Facilities Outside NYS, in which Trinity Health Corporation-affiliated providers are located.

To date, we have received responses from the states of California, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Massachusetts, Maryland, Michigan, Nebraska, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, and South Dakota.

Connecticut, Delaware, Georgia, Idaho, Illinois, Michigan, Nebraska, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, and South Dakota have all indicated that the affiliated providers / facilities in their states are in current compliance with no histories of enforcements, for the time-period 2011 – 2018.

The State of Massachusetts responded that it does not have the resources to conduct reviews of compliance / enforcement histories, and will not provide such reports.

The State of Maryland reports that, during the time-period 2011 – 2018, an enforcement action was taken against Holy Cross Rehabilitation and Nursing (Sanctuary at Holy Cross), a nursing home located in Maryland, in September 2016, based on a February 2016 standard survey, citing violations in Quality of Care: Accidents/Hazards/Environment/Supervision. A federal Civil Monetary Penalty of \$74,700 was imposed and paid. The remaining Maryland providers / facilities have no histories of enforcement for the time-period 2011 – 2018, and all providers / facilities are in current compliance.

The State of Indiana reports that, during the time-period 2011 – 2018, an enforcement action was taken against Sanctuary at Holy Cross, a nursing home located in Indiana, in January 2017, based on a September 2016 standard recertification survey, citing violations in Quality of Care: Necessary Care and Services/Highest Practicable Well-Being. A state civil penalty of \$3000 was imposed and paid. The remaining Indiana providers / facilities have no histories of enforcement for the time-period 2011 – 2018, and all providers / facilities are in current compliance.

The State of Iowa reports no enforcements, but does report the following three issues for the time-period 2011 - 2018:

An Immediate Jeopardy situation was identified at Mercy Medical Center (Hospital) in January 2017, citing violations in the federal Conditions of Participation for 42 CFR 482.12 Governing Body; 42 CFR 482.21 Quality Assessment and Performance Improvement Program; 42 CFR 482.23 Nursing Services; and 42 CFR 482.27 Laboratory Services. However, the Immediate Jeopardy and citations were ultimately not enforced.

Condition level non-compliance was identified at Mercy Home Care (CHHA), a deemed Home Health Agency surveyed by an accreditation agency, in June 2016. Per federal requirements, the agency was ultimately prohibited from providing home health aide training and testing for the two-year period from 6/29/2016 through 06/29/2018. No state enforcement was imposed.

Ellen Kennedy Assisted Living Center (ALP) had violations cited in September 2016, in Sufficient Staffing and Nursing Reviews. The matter was resolved in November 2016, with no civil penalty enforcement action taken.

The remaining Iowa providers / facilities have no histories of enforcement for the time-period 2011 – 2018, and are in current compliance.

The State of California reports that, during the time-period 2011 – 2018, three separate enforcement actions were taken against Saint Agnes Medical Center, a hospital located in Fresno, California, as follows:

Violations based on a survey conducted on January 13, 2012, resulted in a civil penalty of \$50,000 imposed on September 26, 2012. Violations based on a survey conducted on November 17, 2015, resulted in a civil penalty of \$4750 imposed on March 24, 2016. Violations based on a survey conducted

on January 11, 2017, resulted in a civil penalty of \$11,250 imposed on February 2, 2017. The State of California reports that none of these enforcement actions involved repetitive violations, and all were resolved as noted above.

The remaining California providers / facilities have no histories of enforcement for the time-period 2011 – 2018, and all providers / facilities are in current compliance.

The State of Florida reports that, during the time-period 2011 – 2018, the following enforcement actions were taken:

Winter Haven Hospital was assessed an administrative penalty of \$1000 in January 2011 for violations in the areas of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation; an administrative penalty of \$1000 in January 2011 for violations in the area of Emergency Department Services; an administrative penalty of \$1000 in March 2011 for violations in the area of Emergency Department Services; an administrative penalty of \$1000 in August 2012 for violations in the area of Emergency Department Services; and an administrative penalty of \$1000 in October 2013 for violations in the area of Inappropriate Restraints.

Mease Dunedin Hospital was assessed an administrative penalty of \$6000 in June 2012 for violations in the areas of Patient Assessment and Emergency Department Services; and an administrative penalty of \$320 in August 2013 for nonpayment of Life Safety Code survey fee.

Morton Plant Hospital was assessed an administrative penalty of \$800 in March 2011 for violations in the areas of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation; an administrative penalty of \$1000 in December 2011 for violations in the area of Nursing Department Policies and Procedures; an administrative penalty of \$1000 in July 2012 for violations in the area of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation; an administrative penalty of \$1000 in April 2013 for violations in the area of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation; and an administrative penalty of \$1000 in July 2013 for violations in the area of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation.

Morton Plant North Bay Hospital was assessed an administrative penalty of \$2000 in October 2011 for violations in the areas of Nursing Assessment, Goals, Evaluation, Intervention, and Documentation.

St. Anthony's Hospital was assessed an administrative penalty of \$5000 in July 2011 for violations in the areas of MRI Alterations, Renovations, and Installation; an administrative penalty of \$600 in January 2014 for nonpayment of Life Safety Code survey fee; an administrative penalty of \$1000 in March 2015 for violations in the area of Nursing Management Functions; an administrative penalty of \$5500 in April 2016 for a violation in the area of Failure to Notify Florida State Agency for Health Care Administration of Ownership Change in 2014; and an administrative fee of \$471.36, and a reimbursement to the State of \$5553.31, for a total payment of \$6024.67, in September 2017 for recoupment of Medicaid overpayments.

St. Joseph's Hospital was assessed an administrative penalty of \$1000 in October 2012 for violations in the area of Discharge Planning; and an administrative penalty of \$21,500 in April 2016 for a violation in the area of Failure to Notify Florida State Agency for Health Care Administration of Ownership Changes in 2014 at St. Joseph's Hospital, St. Joseph's Hospital North, St. Joseph's Hospital South, and St. Joseph's Hospital Behavioral Health Center.

Bartow Regional Medical Center was assessed an administrative penalty of \$480 in May 2014 for nonpayment of Life Safety Code survey fee.

Holy Cross Hospital was assessed an administrative fee of \$572.59, and a reimbursement to the State of \$11,364.51, for a total payment of \$11,937.10, in April 2013 for recoupment of Medicaid overpayments; was assessed an administrative fee of \$73.84, and a reimbursement to the State of \$86,982.65, for a total payment of \$87,056.49, in October 2015 for recoupment of Medicaid overpayments; and was assessed a reimbursement payment to the State of a total payment of \$97,620.48, in September 2017 for recoupment of Medicaid overpayments.

The remaining Florida providers / facilities have no histories of enforcement for the time-period 2011 – 2018, and all providers / facilities are in current compliance.

To date, the remaining states of Alabama and Maine have failed to respond.

CHHA Quality of Patient Care Star Ratings (per https://www.medicare.gov/homehealthcompare/search.html , as of 01/02/2018)	
New York Average: 3 out of 5 stars National Average: 3.5 out of 5 stars	
CHHA Name	Quality of Care Rating
St. Joseph's Hospital Health Center CHHA	3 out of 5 stars
Oswego Health Home Care, LLC	3.5 out of 5 stars
Eddy Visiting Nurse and Rehab Association	4 out of 5 stars
McAuley – Seton Home Care Corporation	4.5 out of 5 stars

Conclusion

A review of all personal qualifying information indicates there is nothing in the background of the members of the Board of Directors of St. Joseph's Health, Inc. or Trinity Health Corporation, to adversely affect their positions with the organization. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Background

There are no projected changes in the utilization, revenues or expenses of St. Joseph's Hospital Health Center CHHA as a direct result of this project.

Capability and Feasibility

There are no project costs or budgets associated with this application. BFA Attachment B is the consolidated certified financial statements of Trinity Health for the years ended June 30, 2017 and 2016. As shown, the entity maintained positive working capital and net asset positions in 2016 and 2017. Trinity Health had an operating income of \$46,379,000 in 2016, but experienced an operating loss of \$18,115,000 in 2017 due to the following two charges to operations:

- \$248,070,000 of non-cash fixed asset impairment charges that are helping the System right-size inpatient physical plant utilization and reposition in some markets; and
- \$36,184,000 of restructuring charges primarily related to severance and benefits under cost reduction and staffing initiatives currently positioning Trinity Health for lower labor costs in fiscal year 2018.

Trinity Health offset these net operating losses with several nonoperating items, including investment income and equity in earnings of unconsolidated affiliates. As of June 30, 2017, Trinity's excess of revenue over expenses, including nonoperating items, was \$1,336,823,000. BFA Attachment C is the consolidate certified financial statements of St. Joseph's Health, Inc. and Subsidiaries for the period ending June 30, 2017, which shows the entity maintained positive working capital and net asset positions and had an operating income of \$3,296,000.

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

Recommendation

From a financial perspective, approval is recommended.

Attachments

Programmatic Attachment A	St. Joseph's Hospital Health Center Organizational Structure
Programmatic Attachment B	St. Joseph's Health, Inc. Organizational Structure
Programmatic Attachment C	Trinity Health Providers / Facilities Within New York State
Programmatic Attachment D	Trinity Health Providers / Facilities Outside New York State
BFA Attachment A	St. Joseph's Health – Proposed corporate organizational chart
BFA Attachment B	Trinity Health – June 30, 2017 and 2016 certified financial statements
BFA Attachment C	St. Joseph's Health, Inc. and Subsidiaries – June 30, 2017 certified financial statements