

STATE OF NEW YORK
PUBLIC HEALTH AND HEALTH PLANNING COUNCIL

STANDING COMMITTEES

Tentative
June 10, 2011
9:30 a.m.

90 Church Street
4th Floor, Room 4A & 4B
New York City

I. COMMITTEE ON CODES, REGULATIONS AND LEGISLATION
Addendum to be posted under separate distribution.

Exhibit #1

II. COMMITTEE ON PUBLIC HEALTH

III. COMMITTEE ON HEALTH PLANNING

IV. COMMITTEE ON ESTABLISHMENT AND PROJECT REVIEW

A. Applications for Construction of Health Care Facilities

Cardiac Services - Construction

Exhibit #2

	<u>Number</u>	<u>Applicant/Facility</u>
1.	102022 C	New York Methodist Hospital (Kings County)

Acute Care Services - Construction

Exhibit #3

	<u>Number</u>	<u>Applicant/Facility</u>
1.	102417 C	Queens Hospital Center (Queens County)
2.	111257 C	University Hospital SUNY Health Science Center (Onondaga County)

Ambulatory Surgery Center - Construction

Exhibit #4

	<u>Number</u>	<u>Applicant/Facility</u>
1.	102221 C	NYU Hospitals Center (New York County)
2.	102364 C	NYU Hospitals Center (New York County)

3. 101112 C Nathan Littauer Hospital Ambulatory Surgery Center
(Fulton County)

Hospice - Construction

Exhibit #5

- | <u>Number</u> | <u>Applicant/Facility</u> |
|---------------|--|
| 1. 102407 C | Hospice of Orleans, Inc.
(Orleans County) |

Residential Health Care Facilities - Construction

Exhibit #6

- | <u>Number</u> | <u>Applicant/Facility</u> |
|---------------|---|
| 1. 101083 C | Eger Health Care and Rehabilitation Center
(Richmond County) |
| 2. 102316 C | Hamilton Park Multicare, LLC d/b/a Hamilton Park Nursing
and Rehabilitation Center
(Kings County) |

Transitional Care Units - Construction

Exhibit #7

- | | |
|-------------|---|
| 1. 102365 T | Erie County Medical Center
(Erie County) |
| 2. 102366 T | South Nassau Communities Hospital
(Nassau County) |
| 3. 102367 T | St. Francis Hospital
(Nassau County) |
| 4. 102370 T | Good Samaritan Hospital of Suffern
(Rockland County) |
| 5. 102371 T | Brookhaven Memorial Hospital Medical Center, Inc.
(Suffolk County) |
| 6. 102372 T | Glens Falls Hospital
(Warren County) |

- 7. 102373 T Northern Westchester Hospital
(Westchester County)
- 8. 102374 T White Plains Hospital Center
(Westchester County)

Long Term Home Health Care Program - Construction

Exhibit #8

<u>Number</u>	<u>Applicant/Facility</u>
1. 111177 C	Village Center for Care (Bronx County)

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

Acute Care Services – Establish/Construct

Exhibit #9

<u>Number</u>	<u>Applicant/Facility</u>
1. 101153 E	New Island Hospital (Nassau County)
2. 102453 E	North Shore Long Island Jewish Health Care, Inc. (Nassau County)
3. 111074 E	Arnot Health, Inc. (Chemung County)

Ambulatory Surgery Center - Establish/Construct

Exhibit #10

<u>Number</u>	<u>Applicant/Facility</u>
1. 101134 B	Roosevelt SC, LLC (New York County)
2. 101159 E	Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter (Monroe County)
3. 101160 E	West ASC, LLC d/b/a Camillus Surgery Center (Onondaga County)
4. 101167 B	West Side GI, LLC (New York County)
5. 111133 B	Heritage One Day Surgery, LLC (Onondaga County)

- 6. 111138 B Putnam GI, LLC d/b/a Putnam Endoscopy ASC, LLC
(Putnam County)
- 7. 111194 B East Side Endoscopy
(New York County)

Diagnostic and Treatment Centers - Establish/Construct

Exhibit #11

<u>Number</u>	<u>Applicant/Facility</u>
1. 082140 E	Ralph Lauren Center for Cancer Care and Prevention (New York County)
2. 092199 E	East Coast Rehabilitation, Inc. d/b/a Columbus Center for Medical Rehabilitation (Queens County)
3. 101103 B	Queens Medical Pavilion, LLC (Queens County)
4. 102159 B	Parcare Community Health Network (Kings County)
5. 102256 E	South Brooklyn Medical Administrative Services, Inc. (Kings County)
6. 102363 E	HeartShare Wellness Ltd. (Kings County)

Dialysis Services - Establish/Construct

Exhibit #12

<u>Number</u>	<u>Applicant/Facility</u>
1. 091040 B	Palm Gardens Dialysis Center, LLC (Kings County)
2. 092072 B	Mohawk Valley Dialysis Center, Inc. (Montgomery County)
3. 092169 B	Ditmas Park Dialysis Center, LLC (Kings County)

Hospice – Establish/Construct**Exhibit #13**

<u>Number</u>	<u>Applicant/Facility</u>
1. 082184 B	Visiting Nurse Service of New York Hospice Care (New York County)

Residential Health Care Facilities - Establish/Construct**Exhibit #14**

<u>Number</u>	<u>Applicant/Facility</u>
1. 062433 B	Brooklyn-Queens Nursing Home (Kings County)
2. 092050 E	Woodbury Center for Health Care (Nassau County)
3. 092056 E	White Plains Center for Nursing Care, LLC (Westchester County)
4. 092156 E	Sprain Brook Manor Rehab, Inc. d/b/a Sprain Brook Manor Nursing Home (Westchester County)
5. 102048 E	Ozone Acquisitions, LLC d/b/a Central Island Healthcare (Nassau County)
6. 102234 E	Wedgewood Care Center, Inc. d/b/a Highfield Gardens Care Center of Great Neck (Nassau County)
7. 102346 E	KFG Operating Two, LLC d/b/a Bensonhurst Center for Rehabilitation and Healthcare (Kings County)
8. 111186 E	Autumn View Health Care Facility, LLC (Erie County)
9. 111188 E	Brookhaven Health Care Facility, LLC (Suffolk County)
10. 111189 E	Garden Gate Health Care Facility (Erie County)
11. 111190 E	Harris Hill Nursing Facility, LLC (Erie County)

- 12. 111191 E North Gate Health Care Facility
(Niagara County)
- 13. 111192 E Seneca Health Care Center
(Erie County)
- 14. 111248 E Morningstar Care Center, Inc. d/b/a Morningstar Residential Care Center
(Oswego County)

Certified Home Health Agencies – Establish/Construct

Exhibit #15

<u>Number</u>	<u>Applicant/Facility</u>
1. 051081 E	Family Aides Certified Services of Nassau, Suffolk Incorporated d/b/a Family Care Certified Services of Nassau (Nassau County)
2. 101147 B	Litson Certified Care, Inc., d/b/a WILLCARE (Ulster County)
3. 101156 E	L. Woerner, Inc., d/b/a HCR (Orleans County)
4. 102080 E	Genesee Region Home Care Association d/b/a Lifetime Care (Cayuga County)
5. 102408 E	PTS of Westchester, Inc. (Westchester County)
6. 102409 E	Personal Touch Home Aides of New York, Inc. (Kings County)

C. Certificates

Certificate of Amendment of the Certificate of Incorporation

Exhibit #16

Applicant

- 1. UNITE HERE Health Center, Inc.
- 2. Medina Health Care Foundation, Inc.

Certificate of Dissolution

Exhibit #17

Applicant

- 1. Wartburg Diagnostic and Treatment Center, Inc.

D. Home Health Agency Licensures

Home Health Agency Licensures

Exhibit #18

<u>Number</u>	<u>Applicant/Facility</u>
1807L	Angels on Call Homecare, LLC (Dutchess, Rockland, Westchester, Orange, Sullivan, Bronx, Putman, and Ulster Counties)
1880L	ACS Home Care, LLC (Nassau, Queens, Suffolk, Westchester, Bronx, Kings, and New York Counties)
1866L	Bells Homecare, Inc. (Bronx, Queens, Kings, Richmond, Nassau, and New York Counties)
1955L	Centurion Enterprises, LLC (Westchester County)
1659L	Courtesy Care, LLC (Bronx, Richmond, Kings, Westchester, Queens and New York Counties)
1873L	Good Care Agency, Inc. (Bronx, Queens, Kings, Richmond, Nassau and New York Counties)
1857L	HHDL, Inc. d/b/a Home Helpers #58168 (Saratoga, Albany, Warren, Schenectady and Washington Counties)
1893L	Aquinas, LLC d/b/a Senior Helpers (New York, Richmond, Bronx, Westchester, Kings, and Queens Counties)
1890L	SIY Home Care, LLC (Kings, New York and Richmond Counties)
1888L	Senior Care HHA, Inc. (Nassau and Suffolk Counties)

- 1902L Silvervine Homecare Services
(Bronx, Queens, Kings, Richmond, Nassau and
New York Counties)
- 1927L Jodi Lee VanNostrand d/b/a Top Quality Home
Care Agency
(Fulton, Schenectady, Hamilton, Schoharie,
Montgomery and Saratoga Counties)
- 1883L Balanced Home Care, LLC d/b/a Balanced Care
Licensed Home Care Agency/Hudson Valley
Assisted Living Program
(Rockland and Orange Counties)
- 1963L Cortland County Health Department
(Cortland County)
- 1970L Dutchess County Department of Health
(Dutchess County)
- 1945L Schoharie County Department of Health
(Schoharie County)
- 1913L A&B Enterprises of Long Island, Inc.
(Nassau and Queens Counties)
- 1912L Allegiant Home Care, LLC
(Bronx, Queens, Kings, Richmond, Nassau and
New York Counties)
- 1842L Allpro Home and Health Care Services
(Bronx, Richmond, Kings, Westchester, New York
and Queens Counties)
- 1683L Coram Healthcare Corporation of Greater New
York
(See exhibit for counties served)
- 1843L Critical Care Nursing Agency, LLC d/b/a Akshar
Nursing Agency
(Nassau, Suffolk and Queens Counties)

- 1381L Cudley's Home Care Services, Inc.
(Bronx, Queens, Kings, Richmond, Nassau and
New York Counties)
- 1840L Heartland Homecare Agency, Inc.
(Bronx, Richmond, Kings, Westchester, New York
and Queens Counties)
- 1782L I & Y Senior Care, Inc.
(Bronx, Richmond, Kings, Nassau, New York and
Queens Counties)
- 1949L Personal Touch Home Care of Long Island, Inc.
(Nassau, Suffolk and Queens Counties)
- 1950L Personal Touch Home Care of Westchester, Inc.
(Putnam, Rockland, Westchester and Bronx
Counties)
- 1951L Personal Touch Home Care, Inc.
(Bronx, Richmond, Kings, New York, and Queens
Counties)
- 1914L Premier Home Health Care Services, Inc.
(Nassau, Suffolk and Queens Counties)
- 1915L Priority Home Care, Inc.
(Bronx, Richmond, Kings, New York and Queens
Counties)
- 1985L Sterling Glen Care at Home, LLC d/b/a Sterling
Glen Care at Home
(Nassau, Suffolk, Westchester and Queens
Counties)
- 1960L Living Life Home Care, Inc. d/b/a Comfort
Keepers #512
(Westchester, Dutchess, Bronx and Putnam
Counties)
- 1672L Bryan Skilled Home Care, Inc.
(Nassau, Suffolk and Queens Counties)

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Committee on Codes, Regulations and Legislation

Addendum to be posted under separate distribution

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Cardiac Services - Construction

Exhibit #2

	<u>Number</u>	<u>Applicant/Facility</u>
1.	102022 C	New York Methodist Hospital (Kings County)



Public Health and Health Planning Council

Project # 102022-C
New York Methodist Hospital

County: Kings (Brooklyn)
Purpose: Construction

Program: Cardiac Services
Submitted: July 12, 2010

Executive Summary

Description

New York Methodist Hospital (NYMH), a 591-bed, not-for-profit acute care facility located in Brooklyn, requests approval for permanent life of its cardiothoracic surgery and percutaneous coronary intervention (PCI) programs. Under CON #021232-C, NYMH was approved for a five-year limited life certification for these services in March, 2004. The programs consist of two operating rooms designated for cardiac surgery; a cardiac surgery intensive care unit, which can accommodate eight patients, located adjacent to the operating rooms; and a cardiac surgery intermediate care unit, including eight post-operative care beds, located on the third floor of the Miner Pavilion.

NYMH is a member of the New York Presbyterian Healthcare System (NYPHS). NYPHS is a partnership of hospitals, specialty institutions, and continuing care centers committed to providing high quality care to communities throughout New York, New Jersey and Connecticut. All NYPHS members are academic affiliates of Weill Cornell Medical College and Columbia University College of Physicians and Surgeons.

DOH Recommendation Approval.

Need Summary

The cardiac surgery and PCI programs at New York Methodist Hospital (NYMH) became operational in 2004.

Based on 10 NYCRR 405.29, a cardiac surgery program is required to maintain a minimum annual volume of 100 cardiac surgery procedures. NYMH performed 183 cardiac surgery procedures in 2010.

Based on 10 NYCRR 709.14, a PCI program is required to maintain a minimum volume of 300 PCI procedures. NYMH performed a total of 1200 PCI procedures for residents of Kings County in 2010.

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.

2010 Operations:	Revenues:	\$ 40,482,692
	Expenses:	<u>21,832,652</u>
	Gain/(Loss):	\$ 18,650,040

Based on the 2010 financial statements, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

As this project contains no new construction or renovations, no Architectural review is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval.

Council Action Date

June 16, 2011.

Need Analysis

Background

New York Methodist Hospital (NYMH) requests approval for permanent life for its cardiothoracic surgery and percutaneous coronary intervention (PCI) programs.

Kings County Cardiac Surgery Trial Program Initiative

The "Kings County Cardiac Surgery Trial Program Initiative" resulted in a competitive review of three hospitals, Brookdale Hospital Medical Center (CON #021231-C), New York Methodist Hospital (CON #021232-C), and Long Island College Hospital (CON #021283-C), to approve one application to add a cardiac surgery program in Kings County.

This competitive review was brought to the State Hospital Review and Planning Council (SHRPC) on February 6, 2003. New York Methodist Hospital (NYMH) was recommended for contingent approval for a five-year limited life. The Department of Health letter of approval was dated February 27, 2003. NYMH received approval to start the program on March 29, 2004.

The following cover memo from the Division of Health Facility Planning to the SHRPC, on January 17, 2003, describes the background for the cardiac surgery trial program initiative.

In March of 1996, three CON applications from facilities in Kings County requesting approval to initiate cardiac surgery were disapproved. Subsequently, review by the New York State Cardiac Advisory Committee (CAC) found that exceptions to the need methodology, with no real evidence that the proposed program would substantially enhance care in a region, are not in the best interest of high quality care. However, based on extensive review of concerns raised with regard to heart disease, access to care for underserved patients and outcomes for cardiac surgery programs, the Committee found that the addition of a new program in Kings County, under carefully controlled conditions and a mechanism to monitor changes in the county is warranted. The resulting program approval would be a 5-year limited time frame, with an implementation and monitoring structure focused on quality of care and the special access needs of the residents of Kings County.

The three Kings County facilities receiving the initial disapproval were notified on May 15, 2002 of the opportunity to update their original cardiac surgery application and were provided with the review criteria to be utilized in evaluating the trial program. Brookdale Hospital Medical Center, New York Methodist Hospital, and Long Island College Hospital (LICH) each submitted updated applications in response to the "Kings County Cardiac Surgery Trial Program Initiative" which were reviewed on a competitive basis.

A comprehensive review of each application had been completed by the Department and by a panel of members from the CAC who are not directly impacted by the selection process. Complete applications were provided to each panel member. The panel also interviewed representatives from each applicant facility in closed session. The panel found that all of the proposals were acceptable in that they each met the criteria set forth in the Kings County Cardiac Surgery Trial Program Initiative guidelines. Based on those guidelines, they favored the proposal from LICH. In its evaluation the panel expressed concerns with overall fiscal sustainability and related factors of financial feasibility. On this component the panel deferred judgment to the Department, recognizing the critical importance of the Department's in-depth financial analysis of each application.

As reflected in the accompanying financial analysis exhibit, only CON #021232 from New York Methodist Hospital can satisfy the financial feasibility factors associated with implementing a cardiac surgery program. The Department views this as critical to the success of the program chosen. The New York Methodist Hospital is recommended herein for contingent approval.

Beds and Services

<u>New York Methodist Hospital Certified Beds</u>	
Coronary Care	10
Intensive Care	28
Maternity	50
Medical/Surgical	385
Neonatal Intensive Care	18
Neonatal Intermediate Care	6
Pediatric	15
Pediatric ICU	4
Physical Medicine and Rehabilitation	25
Psychiatric	<u>50</u>
Certified Beds – Total	591

NYMH is a member of the New York Presbyterian Healthcare System and an affiliate of Weill Cornell Medical College. NYMH’s cardiothoracic surgery program is integrated with the Department of Cardiothoracic Surgery at Weill Cornell Medical College.

NYMH reports that it has a large graduate medical education program with approximately 264 resident physicians and physician-fellows and 125 medical students. The hospital offers residency training programs in internal medicine, surgery, pediatrics, obstetrics and gynecology, radiation oncology, anesthesiology, emergency medicine, psychiatry, podiatry, and dentistry. Fellowships are offered in cardiovascular disease, hematology/oncology, interventional cardiology, pulmonary disease, critical care medicine, clinical electrophysiology, geriatrics and gastroenterology.

<u>Cardiac Surgery Volume for Kings County Residents by Region by Hospital 2005-2010</u>			
	<u>2005</u>	<u>2009</u>	<u>2010</u>
<u>Bronx</u>	4	8	12
<u>Kings</u>			
Maimonides M.C.	556	442	412
NY Methodist	176	143	158
Univ. Hospital-Brooklyn	<u>124</u>	<u>116</u>	<u>86</u>
<i>Kings Total</i>	856	701	656
<u>New York</u>	1,145	874	823
<u>Queens</u>	35	30	21
<u>Richmond</u>	<u>38</u>	<u>30</u>	<u>18</u>
<u>NYC Total</u>	2,078	1,643	1,530
<u>Long Island</u>	<u>53</u>	<u>45</u>	<u>48</u>
<u>Total</u>	2,131	1,688	1,578

The cardiac surgery volume for Kings County residents declined from 2005 to 2010 by 29.5%. For the three Kings County hospitals that provide cardiac surgery, the volume of cardiac surgeries declined as follows:

<u>Kings County Hospitals Total Volume of Cardiac Surgery, 2010</u>			
<u>Facility</u>	<u>2005</u>	<u>2010</u>	<u>Percent Change</u>
Maimonides M.C.	606	465	-23.3%
NY Methodist	188	183	-2.6%
Univ. Hospital-Brooklyn	<u>142</u>	<u>90</u>	<u>-36.6%</u>
Total	936	738	-21.2%

The total volume of cardiac surgery for the three cardiac surgery programs in Kings County declined by 21.2% from 2005 to 2010.

The proportion of Kings County residents who underwent cardiac surgery between 2005 and 2010 and who had that surgery at Kings County hospitals:

<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
41.2%	46.3%	46.3%	52.4%	42.6%	42.8%

From 2005 to 2010 there was minimal change in the proportion of Kings County residents that stayed in Kings County for cardiac surgery. In 2010, 57.2% of these residents traveled outside of Kings County for cardiac surgery.

The largest volume of Kings County cardiac surgery patients continue to travel to Manhattan. Since there is available cardiac surgical capacity in Brooklyn, this pattern of patient migration appears to be a matter of choice.

The approval of the cardiac surgery program at New York Methodist Hospital (NYMH) has not created a new market for cardiac surgery in Brooklyn. NYMH has established its cardiac surgery volume by reducing the market shares of Maimonides Medical Center and University Hospital of Brooklyn.

<i>Cardiac Surgery Volume New York State and New York City, 2005-2010</i>			
	<u>2005</u>	<u>2010</u>	<u>Percent Change</u>
New York State	21,434	20,248	-5.53%
New York City	9,314	8,299	-10.9%

Source: Cardiac Services Program

The volume of cardiac surgery procedures in New York State declined by 5.53% from 2005 to 2010. The volume of cardiac surgery in New York City declined by 10.9% from 2005 to 2010. This utilization trend is consistent with the national pattern of decline in these procedures.

<i>PCI Procedures for Kings County Residents, 2005-2010</i>			
<u>New York City</u>	<u>2005</u>	<u>2009</u>	<u>2010</u>
<u>Bronx</u>	1	9	2
<u>Kings</u>			
Brookdale Hosp.	-	81	329
Long Island College	11	157	154
Lutheran Med. Ctr.	-	23	310
Maimonides M.C.	1,482	1,158	1,075
NY Methodist Hosp	908	1,101	1,200
Univ. Hosp Brook	<u>1,250</u>	<u>718</u>	<u>523</u>
Kings Total	3,651	3,238	3,591
<u>New York</u>	<u>3,927</u>	<u>4,427</u>	<u>3,661</u>
<u>Queens</u>	<u>171</u>	<u>168</u>	<u>163</u>
<u>Richmond</u>	<u>95</u>	<u>35</u>	<u>40</u>
NYC Total			
<u>Long Island</u>	<u>108</u>	<u>83</u>	<u>91</u>
Total	<u>7,953</u>	<u>7,960</u>	<u>7,548</u>

Source: Cardiac Services Program

In addition to the PCI program at NYMH, there have been three other PCI programs that have been approved for Kings County, at Brookdale Hospital, Long Island College Hospital, and Lutheran Medical Center. In spite of this increase in the number of PCI programs, the volume of PCI procedures for Kings County residents declined by 1.6% from 2005 to 2010. This decline is consistent with the national trend in PCI procedures.

PCI Procedures for Residents of New York State, 2005-2010			
	<i>2005</i>	<i>2010</i>	<i>Percent Change</i>
New York State	56,058	54,127	-3.4%
New York City	26,101	25,177	-3.5%

Source: Cardiac Services Program

From 2005 to 2010, the volume of PCI procedures for residents of New York State declined by 3.4%.

Race/Ethnicity of Cardiac Surgery Patients					
Kings County Residents 2009					
	<i>Maimonides</i>	<i>Univ. Hospital</i>	<i>NY-Methodist</i>	<i>Outside Kings County</i>	<i>Total</i>
White	305	8 (0.9)	79 (9.0)	480 (55.0)	872 (100)
Black	65 (17.0)	91 (23.9)	47 (12.3)	178 (46.7)	381 (100)
Hispanic	56 (20.4)	21 (7.6)	40 (14.5)	158 (57.5)	275 (100)
Other	50 (32.5)	9 (5.8)	8 (5.2)	87 (56.5)	154 (100)
Total	476 (28.2)	129 (7.7)	174 (10.3)	903 (53.7)	1682 (100)

Source: Cardiac Surgery Program

Among Kings County cardiac surgery programs, Maimonides Medical Center has the highest proportion of Hispanic patients and University Hospital of Brooklyn has the highest proportion of African-American patients. The largest proportion of minority patients continue to go outside of Kings County for cardiac surgery.

Race/Ethnicity of PCI Patients					
Kings County Residents 2009					
	<i>Maimonides</i>	<i>Univ. Hospital</i>	<i>NY-Methodist</i>	<i>Outside Kings County</i>	<i>Total</i>
White	976(57.2)	42 (2.5)	627 (36.8)	61 (3.6)	1,706 (100)
Black	75 (6.9)	563 (51.6)	397 (36.4)	56 (5.1)	1,091 (100)
Hispanic	72 (17.0)	120 (28.4)	188 (44.4)	43 (10.2)	423 (100)
Other	127(59.0)	18 (8.4)	51 (23.7)	19 (8.8)	215 (100)
Total	1250 (36.4)	743 (21.6)	1263 (36.8)	179 (5.2)	3,435 (100)

NYMH has the largest volume of PCI procedures among Kings County hospitals, followed closely by Maimonides Medical Center. NYMH has the largest proportion of Black and Hispanic PCI patients.

Conclusion

The Kings County Cardiac Surgery Trial Program Initiative was developed by the State Department of Health based on the premise that there was a need for a third cardiac surgery center in Brooklyn to improve access to the underserved populations of Kings County.

The New York Methodist Hospital (NYMH) cardiac surgery program became operational in 2004. Based on Section 405.29, a cardiac surgery program is required to maintain a minimum of 100 cardiac surgery procedures per year. In 2010, NYMH performed 210 cardiac surgery procedures.

Although the primary focus of “trial program initiative” was cardiac surgery, the total volume of cardiac surgery for the three cardiac surgery programs in Kings County declined by 21.2% from 2005 to 2010. For this time period, the volume of cardiac surgery in New York City declined by 10.9%. This utilization trend is consistent with changes in technology and the national pattern of decline in cardiac surgery.

From 2005 to 2010, the volume of PCI procedures at NYMH increased from 908 to 1200 PCI procedures. Based on 709.14, each PCI program is required to maintain a minimum volume of 300 PCI procedures.

The cardiac surgery and PCI programs at NYMH are consistent with the volume standards for those programs.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

There have been no changes to staffing or service.

Compliance with Applicable Codes, Rules and Regulations

The applicant has attested to compliance with the following: the governing body and medical staff will develop, maintain, and periodically review a list of policies and procedures that will ensure that services performed at the facility will conform with generally accepted standards of practice. The facility's admissions policy will include anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, and source of payment. All services will be performed in compliance with all applicable federal and state rules, including standards for credentialing, nursing, patient admission and discharge, a medical records system, emergency care, and quality assurance.

Character and Competence

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 Division of Certification and Surveillance, 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.

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 operating budgets for the current year and years one and three in 2011 dollars, summarized below:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$40,482,692	\$44,512,600	\$50,035,000
Total Operating Expenses:	\$21,832,652	\$24,704,700	\$30,765,600
Net Income	\$18,650,040	\$19,807,900	\$19,269,400
Utilization (discharges)	1,680	1,885	2,145

In 2010, 1,500 PCI procedures and 180 cardiothoracic surgery procedures were performed at NYMH.

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

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Commercial Fee for Service	2.62%	2.60%	2.61%
Commercial Managed Care	20.12%	20.21%	20.23%
Medicare Fee for Service	34.52%	34.43%	34.36%

Medicare Managed Care	21.55%	21.59%	21.54%
Medicaid Fee for Service	4.70%	4.62%	4.62%
Medicaid Managed Care	15.83%	15.92%	15.99%
Private Pay/Other	.66%	.63%	.65%

Presented as BFA Attachment A is the number of discharges and revenues for the years 2005-2010.

Capability and Feasibility

There are no project costs associated with this application.

Presented as BFA Attachment B are the 2006 through 2009 financial summaries for The New York Methodist Hospital. The facility has maintained positive working capital and net asset position and generated positive net income of \$15,647,000, \$18,638,000 and \$1,379,000 for 2006, 2007 and 2009, respectively. In 2008, the facility experienced a net loss due to investment income. The dramatic decline in the stock market caused the facility to record an investment income loss of approximately \$28,000,000 for the year 2008. In 2010, the facility maintained positive working capital and net asset position and generated positive net income of \$23,365,000.

The significant increase in net income is due to many factors, but the most significant is the growth in net patient service revenue. For the year 2010, this increased \$61,348,000. The components of this increase include an increase of \$28,884,000 in inpatient revenues, \$18,253,000 in ambulatory services revenue, and \$14,211,000 in professional services revenue. The inpatient volume of adult acute care discharges grew by 4%, and overall case mix intensity increased by another 2%. The facility was able to negotiate double digit rate increases for many of the commercial managed care contracts. The increased payment rates combined with more intensive types of services performed in the ambulatory setting generated this increase in net revenue.

Expenses increased by 6% in 2010 compared to 11% in 2009. The facility was able to achieve this reduction in increases because of a rigorous supply chain cost control program instituted at the end of 2009, which remained in place throughout 2010.

It appears that the applicant has demonstrated the capability to proceed in a financial feasible manner, and approval of permanent life is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	2005 - 2010 Discharges and Revenues
BFA Attachment B	2006 - 2010 Financial Summary, The New York Methodist Hospital
BHFP Attachment	Map

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Acute Care Services - Construction

Exhibit #3

	<u>Number</u>	<u>Applicant/Facility</u>
1.	102417 C	Queens Hospital Center (Queens County)
2.	111257 C	University Hospital SUNY Health Science Center (Onondaga County)



Public Health and Health Planning Council

Project # 102417-C

Queens Hospital Center

County: Queens (Jamaica)
Purpose: Construction

Program: Acute Care Services
Submitted: November 24, 2010

Executive Summary

Description

Queens Hospital Center (QHS), a 261-bed not-for-profit hospital located at 82-68 164th Street, Jamaica, requests approval to certify 5 additional neonatal care unit (NICU) beds. The facility, which is part of the New York City Health and Hospitals Corporation (HHC), currently has 10 neonatal care beds. The applicant states expansion of the NICU is needed due to an increase in obstetric services, and labor and delivery.

The applicant also proposes to expand geriatric services at its main campus and South Queens offsite center. QHS plans to “fit-out” the ground floor of the main campus pavilion to set up an activity and exercise area for seniors as a plan to keep seniors healthy. Also, it will increase the space at the existing South Queens space to serve Rochdale Village community seniors.

Total project costs are estimated at \$4,024,000.

DOH Recommendation
Contingent approval.

Need Summary

From 2004 to 2008, although the occupancy for high risk neonatal services fluctuated, it remained at 86% or above for QHS. This occupancy was 95% in 2006 and 2007, and rose to 103% in 2008.

QHS is licensed for 20 obstetric beds and had an overall increase in utilization from 2004 to 2008. The occupancy for obstetric services was 74% in 2004 and 87% in 2008.

The population of Queens County is projected to increase by approximately 10% by 2020. The elderly population will increase 27%.

Program Summary

There will be no change in the hospital’s complement of services because of this application.

<u>Certified Beds</u>	<u>Current</u>	<u>Proposed</u>
Medical Surgical	123	123
Intensive Care	10	10
Maternity	20	20
Neonatal Intensive Care	6	11
Neonatal Intermediate Care	4	4
Physical Medical Rehab	10	10
Chemical Dependency	17	17
Psychiatric	<u>71</u>	<u>71</u>
Total	261	266

Upon completion of this application, the hospital will employ an additional 40.2 FTEs.

Financial Summary

Project costs will be met with HEAL-NY Phase 14 grant funding of \$4,000,000 and \$24,000 in cash.

Incremental Budget:	<i>Revenues:</i>	\$ 6,162,772
	<i>Expenses:</i>	<u>4,852,688</u>
	<i>Gain/(Loss):</i>	\$ 1,310,084

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

Architectural Summary

Queens Hospital Center is requesting approval to expand geriatric services by expanding and renovating two geriatric clinics, renovate the labor and delivery suite and increase NICU beds from 10 to 15.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a final HEAL-NY Phase 14 Grant approval letter to be used as a source of financing acceptable to the Department of Health. [BFA]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
3. The applicant shall complete construction by July 31, 2014. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Project Description

Queens Hospital Center (QHC) proposes to expand and increase access to patient centered primary health care services by certifying five net new neonatal intensive care unit beds (NICU) for total of 15. The hospital also proposes enhance obstetrics services by expanding its labor and delivery capacity.

The applicant also proposes to expand geriatric services on the main campus, as well as in the community, by constructing a Geriatric Center of Excellence on the ground floor of the hospital's Pavilion. The Center will provide activity and exercise areas for seniors. Additionally, the applicant plans to quadruple the space for geriatrics in its South Queens site, Rochdale Village.

Facility Background

Queens Hospital Center is certified for the following beds and services:

<u>Certified Beds</u>	
Chemical Dependence - Detoxification	17
Intensive Care	10
Maternity	20
Medical / Surgical	123
Neonatal Intensive Care	6
Neonatal Intermediate Care	4
Physical Medicine and Rehabilitation	10
Psychiatric	71
<i>Total Beds</i>	<i>261</i>

<u>Licensed Services</u>	
AIDS Center	Ambulance
Ambulatory Surgery - Multi Speciality	Audiology O/P
Certified Mental Health Services O/P	Chemical Dependence - Detoxification
Chemical Dependence - Rehabilitation O/P	Chemical Dependence - Withdrawal O/P
Clinic Part Time Services	Clinical Laboratory Service
Comprehensive Psychiatric Emergency Program	Coronary Care
CT Scanner	Dental O/P
Emergency Department	Family Planning O/P
Intensive Care	Magnetic Resonance Imaging
Maternity	Medical Social Services
Medical/Surgical	Methadone Maintenance O/P
Neonatal Intensive Care	Neonatal Intermediate Care
Nuclear Medicine - Diagnostic	Nuclear Medicine - Therapeutic
Pharmaceutical Service	Physical Medical Rehabilitation
Physical Medicine and Rehabilitation O/P	Primary Medical Care O/P
Psychiatric	Psychology O/P
Radiology - Diagnostic	Radiology-Therapeutic
Respiratory Care	Therapy - Occupational O/P
Therapy - Physical O/P	Therapy - Speech Language Pathology
Therapy - Vocational Rehabilitation O/P	

Queens Hospital Center has the following State designations:

- AIDS Center
- Level 3 Perinatal Center
- SAFE Center

The hospital has six (6) hospital extension clinics and two school-based hospital extension clinics.

Analysis – Neonatal Care

The primary service area of QHC includes the following zip codes:

11432, 11434, 11433, 11435, 11419, 11412 and 11420.

The secondary service area includes:

11423, 11413, 11429, 11427, 11436, 11428, 11367, 11418, 11422, 11355, and 11365.

Obstetric and NICU Utilization at Queens Hospital Center, 2004-08

Based on the NYSDOH data, QHS had an overall increase in its obstetrics utilization from 2004 to 2008. The average daily census for obstetric services increased from 15 patients per day in 2004 to 17 patients per day in 2008. The occupancy for obstetric services was 74% in 2004 and 87% in 2008, based on 20 licensed beds.

The number of high risk neonates per day fluctuated between 2004 and 2008, from 9 to 10 high risk neonates per day.

The occupancy for high risk neonatal services also fluctuated, remaining at 86% or above during these years. This occupancy was 95% in 2006 and 2007 and 103% in 2008, based on 10 licensed beds.

Year	Beds		Occupancy		Discharges		Avg. Daily Census	
	Maternity	NICU	Maternity	NICU	Maternity	NICU	Maternity	NICU
2004	20	10	74.0%	85.8%	1,992	352	15	9
2005	20	10	80.2%	101.5%	2,080	382	16	10
2006	20	10	73.7%	95.4%	2,062	349	15	10
2007	20	10	77.9%	94.7%	2,171	326	16	9
2008	20	10	87.3%	102.9%	2,286	332	17	10

Source: ICR 2004-08

Obstetric and NICU Utilization in Hospitals in Queens County, 2008:

Currently, Queens County has a total of 158 NICU beds. The number of newborns, including high risk neonates, in the county was 24,282 in 2008. The overall occupancy for neonatal care services was 67% in 2008.

Neonatal Care Beds 2008				
	<u>ICU</u>	<u>Intermediate</u>	<u>Continuing</u>	<u>All</u>
Elmhurst Hospital	30	0	0	30
Flushing Hospital and MC	14	0	0	14
Jamaica Hospital	5	10	4	19
Long Island Jewish-Hillside MC	24	29	4	57
Queens Hospital Center	10	0	0	10
St Johns Episcopal South Shore	4	0	0	4
Caritas Health Care Inc	0	0	0	0
NY Medical Ctr Of Queens	14	0	0	14
Forest Hills Hospital	0	1	9	10
Mount Sinai Hospital Of Queens	0	0	0	0
Total	101	40	17	158

Source: ICR 2008

2008	Discharges					Occupancy
	Neonatal Only					
	Newborn (NB)	ICU	Intermed	Continuing	Ttl NB and All NICU	
Elmhurst Hospital	2,974	1,141	0	0	4,115	68.7%
Flushing Hospital and MC	2,105	481	0	0	2,586	75.0%
Jamaica Hospital	2,347	346	0	0	2,693	53.3%
Long Island Jewish-Hillside MC	4,656	952	0	0	5,608	71.8%
Queens Hospital Center	1,808	332	0	0	2,140	102.9%
St Johns Episcopal South Shore	862					
Caritas Health Care Inc	1,231	0	0	0	1,231	
NY Medical Ctr Of Queens	3,414	457	0	0	3,871	97.2%
Forest Hills Hospital	2,038	0	0	0	2,038	0.0%
Mount Sinai Hospital Queens	0	0	0	0	0	
Total	21,435	3,709	0	0	24,282	67.1%

Source: ICR 2008

Public Need for Neonatal Special Care Beds: Queens County

10 NYCRR 708.5(f)(2):

- (iii) Intensive care beds shall not exceed 1 per 1,000 live births. This standard is based on a prematurity rate of 80/1,000 births and may be adjusted for the actual prematurity rate in a region.
- (iv) Intermediate care beds shall not exceed 3-4 per 1,000 live births. This standard is based on a prematurity rate of 80/1,000 births and may be adjusted for the actual prematurity rate in a region.
- (v) Continuing care beds shall not exceed 2 per 1,000 live births. This standard is based on a prematurity rate of 80/1,000 births and may be adjusted for the actual prematurity rate in a region.

Total number of births in Queens County 2008: 24,282

Neonatal ICU Beds at 1/1,000 Births	24
Neonatal Intermediate Beds at 3.5/1,000 Births	85
Neonatal Continuing Care Beds at 2/1,000 Births	49
Total Need	158
Number of Beds Available Now	158
Remaining Need	0

Based on the CON applications, the number of projected discharges for QHC's NICU is as follows:

Current Year:	523
First Year Increment:	187
Third Year Increment:	62
Total Through Third Year:	772

Conclusion

Although according to the need methodology for NICU's set forth in 10 NYCRR section 708.5 there is no need for additional NICU beds in Queens County, the Queens Hospital Center's NICU occupancy rate of more than 100 percent (well above the planning standard of 75 percent occupancy) indicates that the facility is accommodating more than its expected share of high-risk births. Given the facility's location and a very low rate of OB physician referrals to Jamaica Hospital (the closest NICU hospital to QHC), it is unlikely that this utilization will change. The proposed addition of five NICU beds would therefore alleviate the over-utilization of QHC's NICU and help ensure continued access to NICU care for newborns in the area.

Analysis – Geriatric Services

The population of the primary service area of seven zip codes is 330,316. Approximately, 11 percent of this population is age 65 and over. These data are presented below.

<i>Population by Age Group in the Primary Service Area*</i>					
<i>Zip Code</i>	<i>0 to 17</i>	<i>18 to 64</i>	<i>65+</i>	<i>Total</i>	<i>% OF 65+</i>
11432 (QHC Zip Code)	13,117	37,554	6,374	57,045	11.2%
Remaining 6 Zip Codes in Primary Service Area	73,859	170,841	28,571	273,271	10.5%
Total 7 Zip Codes in the Primary Service Area	86,976	208,395	34,945	330,316	10.6%

* Primary Service Area includes 7 zip codes: 11432 to 11435, 11412, 11419, and 11420. (Source: NYSDOH 2008)

The primary service area has a total of 96,405 (or 29.2%) Medicaid recipients.

Queens County Population:

The population of Queens County is projected to increase significantly by 2020. The overall population will increase about 10 percent, and the elderly population will increase 27 percent.

<i>Population Projections – Queens County</i>					
<i>Age Gr</i>	<i>2000</i>	<i>2005</i>	<i>2010</i>	<i>2015</i>	<i>2020</i>
0-19	564,397	576,269	585,164	596,210	618,595
20-64	1,381,940	1,478,480	1,569,657	1,640,597	1,689,355
65-84	247,078	246,932	255,726	288,341	334,391
85+	35,964	38,362	41,562	42,750	42,865
<i>Total</i>	<i>2,229,379</i>	<i>2,340,043</i>	<i>2,452,109</i>	<i>2,567,898</i>	<i>2,685,206</i>
0-64	1,946,337	2,054,749	2,154,821	2,236,807	2,307,950
65+	283,042	285,294	297,288	331,091	377,256
<i>Total</i>	<i>2,229,379</i>	<i>2,340,043</i>	<i>2,452,109</i>	<i>2,567,898</i>	<i>2,685,206</i>
	<i>% Change</i>	<i>2000-05</i>	<i>2005-10</i>	<i>2010-15</i>	<i>2015-20</i>
	0-64	5.6%	4.9%	3.8%	3.2%
	65+	0.8%	4.2%	11.4%	13.9%
	Total	5.0%	4.8%	4.7%	4.6%
				<i>% Change</i>	<i>2010-20</i>
				0-64	7.1%
				65+	26.9%
				Total	9.5%

Source: NYSDOH 2000-20

The number of visits for geriatric services at QHC is projected to increase.

Current Year:	3,884
First Year Increment:	1,241
Third Year Increment:	<u>124</u>
Total Through Third Year	5,249

Conclusion

The proposed project will improve access to obstetric and neonatal care services for the residents of Queens County. It will also help the elderly population in the County with the proposed construction of the Geriatric Center of Excellence.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

Character and Competence

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

Conclusion

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

Recommendation

From a programmatic perspective, approval is recommended

Financial Analysis

Total Project Cost and Financing

Total project cost, which is for renovation and purchase of moveable equipment is estimated at \$4,024,000, broken down as follows:

Renovation	\$2,613,522
Design Contingency	133,239
Construction Contingency	133,239
Architect Engineering Fees	300,000
Construction Manager Fees	120,000

Moveable Equipment	700,000
Application Fee	2,000
Addition Processing Fees	<u>22,000</u>
Total project Costs	\$4,024,000

Project costs are estimated based on an October 1, 2011 start date and an eighteen-month construction period.

Project Financing is presented below:

Grant Funding (HEAL-NY Phase 14)	\$ 4,000,000
Cash	24,000

Operating Budget

The applicant has submitted an incremental operating budget, in 2010 dollars, for the first and third years of operating, summarized below:

<u>(Inpatient)</u>	<u>Year One</u>	<u>Year Three</u>
Revenues:		
Inpatient:	<u>\$4,540,737</u>	<u>\$6,054,315</u>
Total Revenue:	\$4,540,737	\$6,054,315
Expenses:		
Operating:	\$3,988,248	\$3,988,248
Capital:	<u>266,200</u>	<u>266,200</u>
Total Expenses:	\$4,254,448	\$4,254,448
Excess Revenues:	\$286,289	\$1,799,867
Discharges:	187	249
Cost per Discharge:	\$22,751.06	\$17,086.14
<u>(Outpatient)</u>	<u>Year One</u>	<u>Year Three</u>
Revenues:		
Outpatient:	<u>\$98,597</u>	<u>\$108,457</u>
Total Revenue:	\$98,597	\$108,457
Expenses:		
Operating:	\$465,240	\$465,240
Capital:	<u>133,000</u>	<u>133,000</u>
Total Expenses:	\$598,240	\$598,240
Excess Revenues:	(\$499,643)	(\$489,783)
Visits	1,241	1,365
Cost per Visit:	\$482.06	\$438.27

Presented as Attachment B, is the cost analysis of the impact of the project. The following is noted with respect to the applicant's budget:

- The number of neonatal discharges in 2009 was 523 and outpatient visits totaled 3,884.
- The combined revenues and expenses for this project during the third year shows an excess, or revenues over expenses in the amount of \$1,310,084. Also, it should be noted that the Geriatric Services on BFA Attachment B shows a planned loss in year one and three. HHC has noted that the loss will be absorbed through operation and it's a planned loss due to need.

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

<u>Inpatient: Neonatal Service</u>	<u>Years One & Three</u>
Medicaid Fee-for-Service	9.2%
Medicaid Managed Care	5.2%
Medicare Fee-for Service	47.0%
Medicare Managed Care	22.4%
Commercial Fee-for Service	8.4%
Commercial Managed Care	7.2%
Private pay	.3%
Self Pay	.3%

<u>Outpatient: Geriatric Service</u>	<u>Years One & Three</u>
Medicaid Fee-for –Service	41%
Medicaid Managed Care	27%
Medicare Fee-for Service	10%
Medicare Managed Care	9%
Commercial Fee-for Service	1%
Commercial Managed Care	1%
Private pay	11%

Utilization is based on current year utilization and reimbursement methodologies.

Capability and Feasibility

Project cost of \$4,024,000 will be satisfied from HEAL 14 grant funding contribution in the amount of \$4,000,000 and equity of \$24,000. Presented as BFA Attachment A is the financial summary of New York City Health and Hospitals Corporation indicating sufficient equity.

The submitted budget indicates excess revenues over expenses of (\$213,354) and \$1,310,084 during the first and third year respectively. The budget used current utilization data and reimbursement methodologies.

BFA Attachment A is comprised of New York City Health and Hospitals Corporation certified financial statements. As shown, (HHC) has maintained an average positive working capital position, and an average negative net asset position from June 30, 2008 through June 30, 2010. HHC has incurred an average operating loss of \$587,866,000 for the period shown. The reasons for the losses is due to retirement benefit expense increasing by \$518,100,000 more than budgeted after New York City Actuary recognized costs not previously recognized. HHC has recognized the cost and is now paying the current amount owed yearly to the pension benefit plan and has changed the pension plan to a cost sharing plan.

Also, as part of a cost reduction initiative, (HHC) has instituted the following to improve profitability by reducing medical supply costs through renegotiating with vendors; improve billing and coding procedures; institute a corporate-wide hiring freeze and right size all the related hospitals.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

The project is composed of the following components:

- Geriatric Center for Excellence at the Pavilion Building

The facility proposes to expand and update its Queens Hospital Center Geriatric Clinic. The location of the project is on the ground floor in the new Pavilion Wing.

This project will expand the number of exam rooms from four to six and size them according to the needs of the population who are often wheelchair bound and who are often joined by family members. The waiting room will be expanded to allow for patients in stretchers and wheelchairs. The administrative area will be centralized in order to enhance efficiencies in communication and function for the clinical area.

This renovation will be approximately 4,250 SF.

- Satellite Geriatric Clinic at the South Queens Clinic

With the construction of the Satellite Geriatric Clinic, Queens Hospital Center proposes to provide a separate facility dedicated to geriatric patients. The location of the project is on the first floor of the satellite facility on Guy R. Brewer Blvd.

Currently, the geriatric clinic is in a shared space with the pediatric clinic, with its own reception and waiting room. The patient care area will include two exam rooms and a vitals room, along with a patient toilet. Administrative support facilities such as an office and staff lounge will also be provided.

This renovation will be approximately 1,365 SF.

- Recovery Area Renovation for the Labor and Delivery Suite

The facility proposes to update its recovery facility and staff support areas for the labor and delivery suite. The location of the project is on the second floor of the Queens Hospital Center.

The goal of this project is to expand the number of recovery bays available in the labor and delivery unit. Three recovery bays will be provided, along with a staff work counter and a patient toilet. To accommodate the new recovery area, new lockers and changing rooms will be provided. For doctors and nursing staff entering the surgical suite, a staff clothing change area will be incorporated into the design. Finally, an updated nurses' station and charting area will complete the recovery area.

Adjacent staff support areas will be reconfigured to provide a staff lounge, locker rooms and staff toilet with showers. A dedicated resident area will be provided with a resident on-call room, lounge and resident toilet with shower. This renovation will be approximately 2,065 SF.

- Newborn Intensive Care Unit

The facility proposes to increase their bed complement from 10 NICU beds to 15 NICU beds. The renovation for this increase will be limited to cosmetic upgrade, new furniture and equipment. Medical gases already exist for the 5 new beds, and only require activation.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary, New York Health and Hospitals Corporation
BFA Attachment B	Summary of Detailed Budget
BHFP Attachment	Map



Public Health and Health Planning Council

Project # 111257-C
University Hospital SUNY Health Sciences Center

County: Onondaga (Syracuse)
Purpose: Construction

Program: Acute Care Services
Submitted: March 8, 2011

Executive Summary

Description

University Hospital SUNY Health Sciences Center (University Hospital), a 409-bed public hospital in Syracuse, is requesting approval to acquire virtually all of the assets and real property of Community General Hospital of Greater Syracuse (CGH). Under the transaction, University Hospital will acquire and operate the beds and services at CGH under University Hospital's existing license. University Hospital will operate as one hospital with two campuses, and will total 715 inpatient beds. The reason for this application is that CGH now faces the risk of bankruptcy or closure due to declining volumes and increasing costs.

University Hospital is a teaching hospital that serves as the academic medical center for SUNY Upstate Medical University, and offers residency and fellowship programs in a variety of specialties and subspecialties. The hospital is operated by the State University of New York (SUNY), the nation's largest comprehensive system of public higher education.

CGH is located in the Onondaga Hill section of the Greater Syracuse area and is housed on a 42-acre campus. It is central New York's only suburban hospital campus, and is nationally-recognized for its premier orthopedic program, spinal surgery and maternity services.

DOH Recommendation
Contingent approval.

Need Summary

The applicant indicates that University Hospital is currently at or near capacity. In order for its clinical programs to grow, the hospital would need additional

beds. Therefore, University Hospital's acquisition of CGH's inpatient campus will improve the overall financial operations of the two sites and enhance access to needed inpatient, emergency and outpatient care by residents of the area.

Program Summary

The current and proposed bed complement is as follows:

Category	UH	CGH	Total
Intensive Care	42	20	62
Maternity	0	32	32
Med/Surg	218	208	426
Physical Medicine/Rehab	30	20	50
Psychiatric	24	26	50
Bone Marrow Transplant	4	0	4
Burns Care	6	0	6
Coma Recovery	2	0	2
Coronary Care	8	0	8
Pediatric	46	0	46
Pediatric ICU	15	0	15
Prisoner	10	0	10
Traumatic Brain Injury	4	0	4
TOTAL	409	306	715

No scope or service re-configuration is immediately anticipated or proposed as part of this application.

Financial Summary

There are no project costs associated with this application. This application includes an asset purchase agreement of \$0 for CGH, but the buyer will assume a defined portfolio of CGH liabilities.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural review is required.

Recommendations

Health Systems Agency

The Central New York HSA (CNYHSA) recommends approval of this application, conditional upon University Hospital SUNY Health Sciences Center participating in a planning process with the CNYHSA on issues related to the acquisition of Community General Hospital of Greater Syracuse and its impact on service delivery and access to care.

Office of Health Systems Management

Approval contingent upon:

1. Approval by the Office of Mental Health. [HSP]
2. Submission of an executed asset purchase agreement that is acceptable to the Department of Health. [BFA]

Approval conditional upon:

1. University Hospital SUNY Health Sciences Center participating in a planning process with the CNYHSA on issues related to the acquisition of Community General Hospital of Greater Syracuse and its impact on service delivery and access to care, as described in CNYHSA's letter of May 8, 2011. [HSA]

State Council Recommendation

June 16, 2011.

Need Analysis

Background

University Hospital SUNY Health Science Center (University Hospital) is a 409-bed acute hospital, located at 750 East Adams Street, Syracuse. University Hospital seeks CON approval to acquire Community-General Hospital of Greater Syracuse (CGH), a 306 bed acute care hospital, located at 4900 Broad Road, Syracuse. When this CON is completed, University Hospital will operate the beds and services at Community-General Hospital of Greater Syracuse using its existing license for University Hospital. University Hospital SUNY Health Science Center will operate as one hospital with two campuses. CGH will cease being an operator of inpatient beds and services.

University Hospital SUNY Health Science Center and Community-General Hospital of Greater Syracuse have the following certified beds and services:

Certified Beds	SUNY	Community
Bone Marrow Transplant	4	
Burns Care	6	
Coma Recovery	2	
Coronary Care	8	
Intensive Care	42	20
Maternity		32
Medical / Surgical	218	208
Pediatric	46	
Pediatric ICU	15	
Physical Medicine & Rehabilitation	30	20
Prisoner	10	
Psychiatric	24	26
Traumatic Brain Injury	4	
Total Beds	409	306

Licensed Services	SUNY	Community
AIDS Center	✓	
Ambulatory Surgery - Multi Specialty	✓	✓
Audiology O/P	✓	
Burn Center	✓	
Burns Care	✓	
Cardiac Catheterization - Adult Diagnostic	✓	✓
Cardiac Catheterization - Electrophysiology (EP)	✓	
Cardiac Catheterization - Pediatric Diagnostic	✓	
Cardiac Catheterization - Percutaneous Coronary Intervention (PCI)	✓	
Cardiac Surgery - Adult	✓	
Cardiac Surgery - Pediatric	✓	
Certified Mental Health Services O/P	✓	
Clinic Part Time Services	✓	
Clinical Laboratory Service	✓	✓
Coma Recovery	✓	
Coronary Care	✓	✓
CT Scanner	✓	✓
Dental O/P	✓	
Emergency Department	✓	✓
Family Planning O/P	✓	
Health Fairs O/P	✓	✓
Intensive Care	✓	✓
Linear Accelerator	✓	
Lithotripsy	✓	
Magnetic Resonance Imaging	✓	

<u>Licensed Services</u>	<u>SUNY</u>	<u>Community</u>
Maternity		✓
Medical Social Services	✓	✓
Medical/Surgical	✓	✓
Nuclear Medicine - Diagnostic	✓	✓
Nuclear Medicine - Therapeutic	✓	✓
Pediatric	✓	
Pediatric Intensive Care	✓	
Pharmaceutical Service	✓	✓
Physical Medical Rehabilitation	✓	✓
Physical Medicine and Rehabilitation O/P	✓	
Poison Control Center	✓	
Primary Medical Care O/P	✓	✓
Psychiatric	✓	✓
Radiology - Diagnostic	✓	✓
Radiology-Therapeutic	✓	
Renal Dialysis - Acute	✓	
Respiratory Care	✓	
Therapy - Occupational O/P	✓	
Therapy - Physical O/P	✓	
Therapy - Speech Language Pathology	✓	
Therapy - Vocational Rehabilitation O/P	✓	
Transplant - Bone Marrow	✓	
Transplant - Kidney	✓	
Traumatic Brain Injury Program	✓	

SUNY is authorized to operate 12 hospital extension clinics in the community providing outpatient services such as Pediatric, Certified Mental Health Services, Primary Medical Care, Physical Medicine and Rehabilitation, Clinical Laboratory Service, Optometry, Occupational Therapy, Physical Therapy, Medical Social Services, Nursing, Vocational Rehabilitation Therapy Occupational Therapy, Physical Therapy, and Magnetic Resonance Imaging.

Community-General Hospital of Greater Syracuse is authorized to operate 2 hospital extension clinics in the community providing outpatient services such as Occupational Therapy, Physical Therapy, Nutritional, Respiratory Therapy, and Occupational Therapy.

New York State Designations:

University Hospital

- AIDS Center;
- Burn Center;
- Regional Poison Control Center;
- Regional Trauma Center;
- SAFE Center; and
- Stroke Center;

Community-General Hospital of Greater Syracuse

- Level 1 Perinatal Center.

University Hospital states that it has been operating at or near capacity for the past 18 months. Due to lack of capacity, the hospital states that it has been unable to meet some of the health care demands of the community. University Hospital indicates that these additional beds will allow the hospital to expand its current clinical programs, maintain a high level of quality care, and provide necessary teaching opportunities to its students and residents.

Upon completion of the transaction, the two hospital sites will continue to operate at the total bed capacities as currently listed on each hospital's operating certificate. However, they will, as noted, operate as two campuses of University Hospital SUNY Health Sciences Center.

Analysis

In 2009 and 2010, about 50.0 percent and 77.0 percent of University Hospital and CGH total inpatient discharges were residents of Onondaga County, respectively. In 2000, the census population for Onondaga County stood at 458,336; census estimates for 2009 show a slight decline of 0.8 percent to 454,753 residents.

Displayed in Table 1 below are both hospitals' inpatient discharges and occupancy rates. As shown below, total inpatient discharges at CGH declined by 14.1 percent from 10,593 in 2006 to 9,099 in 2009. These patients generated total occupancy rates that ranged from 34.9 percent to 42.7 percent. Among major service categories, general psychiatric recorded the highest occupancy rates. Occupancy rates for these patients ranged from 76.2 percent to 81.2 percent, while occupancy rates for medical/surgical patients ranged in the high 30s.

University Hospital, on the other hand, experienced a 4.8 percent growth in total inpatient discharges going from 16,794 in 2006 to 17,608 in 2009. During the period under review, overall occupancy rates at University Hospital hovered around 80.0 percent. The facility experienced its highest occupancy rates in the major service categories of pediatrics and general psychiatric. These patients generated occupancy rates in excess of 90.0 percent.

Table 1: Inpatient Utilization by Major Service Category										
<i>Service</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010*</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Current Beds</i>
Community-General	Discharges					Occupancy Based on Current Beds				
Medical/Surgical	6,813	6,862	6,799	6,318	4,103	38.7	39.9	38.8	37.5	248
Pediatric	13	5	9	7	4	0.0	0.0	0.0	0.0	0
Obstetric	1,497	1,367	946	968	744	31.9	29.7	20.6	21.6	32
General Psychiatric	811	785	843	830	674	81.2	80.4	80.4	76.2	26
Chemical Dependency	62	53	37	42	19	0.0	0.0	0.0	0.0	0
High Risk Neonates	51	45	37	42	25	0.0	0.0	0.0	0.0	0
Subtotal	9,247	9,117	8,671	8,207	5,569	42.0	42.7	40.8	39.4	306
Healthy Newborns	1,346	1,250	907	892	696					
Grand Total	10,593	10,367	9,578	9,099	6,265					
University Hospital	Discharges					Occupancy **				
Medical/Surgical	13,440	12,937	13,025	13,848	11,404	77.4	75.2	76.8	78.6	324
Pediatric	2,459	2,179	2,190	2,593	2,628	96.8	90.3	80.6	93.5	61
Obstetric	48	57	43	27	27	0.0	0.0	0.0	0.0	0
General Psychiatric	720	748	827	943	805	91.7	91.7	95.8	95.8	24
Chemical Dependency	59	81	73	118	89	0.0	0.0	0.0	0.0	0
High Risk Neonates	68	58	67	79	59	0.0	0.0	0.0	0.0	0
Grand Total	16,794	16,060	16,225	17,608	15,012	81.0	78.0	79.1	82.0	409

Source: SPARCS 2004 – 2010 *

* Reporting is incomplete

** University Hospital occupancy statistics for 2006 – 2009 were calculated using the facility's existing complement of 378 beds. Thirty-one additional beds were added to University Hospital's operating certificate in 2009.

Both hospitals provided care for patients seeking Emergency Department (ED) services. In 2004, CGH recorded 23,895 total ED visits; these visits increased to 25,314 in 2005, then declined slightly to 25,103 in 2006. The downward trend continued in 2007 to 24,933, and rebounded to 25,535 in 2008. Throughout the interval, an average of 19.2 percent of CGH's ED visits resulted in an inpatient admission. CGH also performed a sizable number of ambulatory surgery procedures. During the years under review, these procedures fluctuated between 4,432 and 4,876.

University Hospital's Emergency Department has experienced twice as many total ED visits as CGH. On average, about 18.1 percent of the facility's total ED visits results in an inpatient admission. During the period under review, University Hospital's ambulatory surgery services experienced a 33.4 percent growth in procedures performed, going from 4,914 in 2004 to 6,555 in 2008 (Table 2).

Table 2: Emergency Department (ED) Visits and Ambulatory Surgery Procedures			
<u>Year</u>	<u>Total ED Visits</u>	<u>% of ED Resulting in Inpt Admission</u>	<u>Amb/Surg Procedures</u>
Community-General Hospital Of Greater Syracuse			
2004	23,895	19.9	4,876
2005	25,314	19.3	4,668
2006	25,103	19.4	4,768
2007	24,933	18.7	4,806
2008	25,535	18.6	4,432
University Hospital SUNY Health Science Center			
2004	48,704	18.0	4,914
2005	50,279	18.3	5,134
2006	49,265	18.8	5,235
2007	50,324	17.7	5,354
2008	49,476	17.7	6,555

Source: Institutional Cost Reports, 2004 – 2008

Data from the Hospital Executive Council in Syracuse New York show that CGH's total inpatients discharges for 2010 declined by more than 800 patients from the prior year's volume. The occupancy rate for these patients excluding healthy newborns was 36.1 percent. Total ED utilization at CGH in 2010 was similar to prior years at around 25,000 visits. On the other hand, University Hospital total inpatient discharges increased by 11.9 percent, from 17,608 in 2009 to 19,699 in 2010. The occupancy rate for these patients excluding healthy newborns stood at 86.9 percent. University Hospital's Emergency Department visits in 2010 stood at 58,293 (Table 3).

Table 3: Inpatient Discharges and Occupancy Rates				
<u>Hospital</u>	<u>ED Visits</u>	<u>Total Inpt Discharges</u>	<u>Discharges Excluding Healthy Newborns</u>	<u>Percent Occupancy</u>
Community General Hospital	25,331	8,287	7,373	36.1
University Hospital	58,293	19,699	19,655	86.9

Source: Hospital Executive Council, 2010

Conclusion

University Hospital SUNY Health Science Center seeks CON approval to operate Community-General Hospital of Greater Syracuse as a second campus under University Hospital's operating certificate. The two facilities provide a considerable amount of inpatient, outpatient and Emergency Department services to the residents of Onondaga and surrounding counties. In 2010, University Hospital posted an overall occupancy rate of 86.9 percent while Community General Hospital's overall occupancy was in the area of 36.1 percent. Both hospitals continue to provide Emergency Department care; however, University Hospital has experienced growth in its ED visits while Community General Hospital's visits remained nearly unchanged. The combined operations of both the CGH and University Hospital sites would improve efficiency of operation and enhance access to needed inpatient, emergency department and outpatient services for the residents of Onondaga and surrounding Counties.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

University Hospital anticipates that the addition of the CGH campus will allow it to add much-needed beds to its license and expand current clinical programs. These additions will help alleviate the issues resulting from University Hospital operating at or near capacity over the last 18 months. If or when University Hospital determines a need for any reconfiguration between the two campuses, the appropriate certificate of need applications will be submitted to the Department for review and approval.

Compliance with Applicable Codes, Rules and Regulations

The applicant will comply with the provisions of the Public Health Law and the applicable provisions of Title 10 with respect to the operation of all established, existing medical facilities in which the applicant has a controlling interest. All services will be rendered in accordance with all applicable federal and state codes, rules and regulations. The hospital'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.

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, contingent approval is recommended.

Financial Analysis

Year 3 Budget

Revenues	\$ 876,705,000
Expenses	<u>868,434,000</u>
Excess Revenues	\$ 8,271,000

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

Asset Purchase Agreement

University Hospital SUNY Health Sciences Center is acquiring certain assets of Community General Hospital of Greater Syracuse, plus assuming liabilities. The terms of a draft asset purchase agreement is summarized as follows:

<i>Seller:</i>	Community General Hospital of Greater Syracuse
<i>Purchaser:</i>	University Hospital SUNY Health Science Center
<i>Assets Acquired:</i>	Fee simple title to the Owned Real Property; leasehold title and tenant's other leasehold interests to the Leased Real Property; restricted and unrestricted cash and cash equivalents except those used to pay off certain liabilities; all furniture and equipment; inventory; assumable prepaid expenses, deposits, claims for refunds and rights to offset; all records including financial, billing, patient, accreditation, medical staff business and

operational records; all rights and interests of the Sellers in all Assumed Contracts; all permits and approvals issued or granted before governmental entities; hardware, software, licenses and information systems used in the business; the goodwill value of the business; all computer and other data processing equipment and all cash security deposits held by Seller under the Leases.

Excluded Assets: Any records which Seller are required by Law to retain their possession; any of the Seller's direct or indirect interests in the following entities: Plaza Corporation of Central New York; Iroquois Nursing Home, Inc.; Plaza Nursing Home Company, Inc.; Community General Enterprises, Inc.; CGE Care Systems, Inc.; the names CGH Health Services and Community General Enterprises; and real property other than the Real Property that was formerly or is currently owned, operated or leased by Seller and such cash, cash equivalents and accounts receivables of Seller agreed by the parties hereto to be reasonable and necessary and sufficient to pay or provide for the payment of the Excluded Liabilities.

Assumed Liabilities: Unknown obligations of Sellers as finally settled and determined under Medicare, Medicaid or Tricare in connection with the Facilities or Purchased Assets; all accounts payable and other ordinary course operating liabilities as of the Closing Date; all obligations under the Assumed Contracts and any and all approvals, environmental permits being transferred to the Buyer; the Pension Plan Liabilities and all obligations which arise at or following the Closing with respect to the Buyer's operation of the Facilities or the Purchased Assets.

Excluded Liabilities: Any obligation or liability to the extent accruing relating to any act or omission by Sellers and/or their Affiliates after Closing; any obligation or liability to the extent accruing relating to any Excluded Asset; any federal, state or local tax obligations of Sellers in respect of periods prior to at or after Closing; any liability or obligation to make any severance, retention, bonus or similar payments to any Employee as a result of the consummation of the Transactions; obligations and liabilities related to the intentional misconduct of grossly negligent acts or omissions of Sellers; any liability or obligations arising out of or in connection with worker's compensation prior to the Closing Date; any liabilities or obligations to the extent accruing, arising out of or relating to the existing Medical Staff Bylaws and any liabilities or obligations under Environmental Law occurring prior to the Closing

Purchase Consideration: Purchaser shall assume the Seller's obligations under the Assumed Liabilities; assume the business obligation and risk of operating the Facilities and Purchased Assets in accordance with the commitments in this Agreement and at Closing, provide for payment of the Excluded Liabilities.

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

Operating Budget

The applicant has submitted the proposed Inpatient and Outpatient operating budget for the combined facility, in 2011 dollars, as summarized below:

	<u>Current Year (UH)</u>	<u>Third Year Incremental</u>	<u>Cumulative</u>
Revenues:			
Net Patient Service Revenue	\$475,540,172	\$235,999,828	\$711,540,000
Other Operating Revenue	116,266,653	16,867,347	133,134,000
Non-Operating Revenue	<u>51,554,113</u>	<u>(19,523,113)</u>	<u>32,031,000</u>
Total Revenues	\$643,360,938	\$233,344,062	\$876,705,000

Expenses:			
Operating	\$589,661,395	\$235,515,811	\$825,177,206
Capital	<u>40,079,063</u>	<u>3,177,731</u>	<u>43,256,794</u>
Total Expenses	\$629,740,458	\$238,693,542	\$868,434,000
Excess of Revenues	\$13,620,480	(\$5,349,480)	\$8,271,000
Utilization:			
Discharges	19,699	11,036	30,735
Patient Days	129,728	55,663	185,391
Occupancy	86.90%		71.04%
Outpatient Visits	423,610	137,216	560,826

Total Inpatient and Outpatient utilization by payor source as of the third year:

<u>Payor</u>	<u>Inpatient</u>	<u>Outpatient</u>
Medicaid Fee-For-Service	9.83%	8.51%
Medicaid Managed Care	13.04%	20.99%
Medicare Fee-For-Service	29.78%	18.20%
Medicare Managed Care	6.62%	4.47%
Commercial Fee-For-Service	22.84%	26.68%
Commercial Managed Care	8.34%	10.20%
Private Pay	3.33%	5.06%
Other	6.22%	5.89%

The submitted budget for the combined facility takes into account revenue deductions of \$18,700,000 due to the recently adopted 2011-2012 State Budget.

Other operating revenues for the CGH campus incorporates several revenue items including pool distributions, rental income, parking fees, cafeteria income, and medical records fees. The assumed increases in Years 1 and 3 reflect the Federal Disproportionate Share revenue that the combined entity will receive when the current CGH operation is treated as a New York State entity.

The submitted budget for the current University Hospital operation reflects expense adjustments for volume. Average salaries will increase at a rate of approximately 3% annually.

Also, incremental salaries reflect a combination of salary adjustments for changes in staffing as well as top-side adjustments, reflecting the estimated salary expense impact of converting CGH employees to state employees. For years one and three, fringe benefits will be 41% of salary expense. Discharges are not projected to increase at University Hospital because the hospital is essentially at capacity with limited maneuverability to grow inpatient activity within the confines of its current physical footprint and licensed beds. Outpatient visits at University Hospital are projected to increase due to the following factors: planned physician recruitment across multiple specialties over the next 3-5 years is expected to generate outpatient volume growth; continued transition of services from the traditional inpatient setting to an outpatient setting; aging of the service area population; and continued reduction in services provided by hospitals in the surrounding counties, resulting in increased in-migration to the Syracuse market for general specialty and sub-specialty services.

The budget for the current Community General Hospital of Greater Syracuse reflects an adjustment to salaries of 3%, while fringe benefits are estimated at 41% of salary expense for years one and three. Discharges from the Community General Hospital of Greater Syracuse site will increase by 489 and 2,489 during the first and third years because increasing the patient care delivery system between two campuses will permit greater flexibility in promoting patient access. Current Emergency Department diversion at University Hospital is at 23%, and many hospital transfers are either delayed or diverted due to a lack of bed access at UH.

Capability and Feasibility

There are no project costs associated with this application. The applicant will purchase from Community General Hospital, virtually all of CGH's assets and real property. In connection with the transfer of these assets to University Hospital, liabilities of CGH and its affiliates will be allocated between University Hospital (as assumed liabilities), or left behind with the Selling Entities to be paid off at or after Closing with funds retained by those entities for this purpose (Excluded Liabilities). There is no purchase price related to this application.

Working capital requirements are estimated at \$39,782,257, which appears reasonable based on two months of third year budgeted incremental expenses. The applicant will provide equity via operations to meet the working capital requirement. Presented as BFA Attachment A are the 2009 certified financial statements and the 2010 internal financial statements of University Hospital of the State University of New York, which indicates the availability of sufficient funds for the equity contribution. Presented as BFA Attachment E is the University Hospital SUNY Health Sciences Center's pro-forma balance sheet that shows a beginning net asset balance of \$126,022,000.

The incremental budget projects positive results for the third year of \$8,271,000. The budget appears reasonable.

As shown on Attachment A, the facility had an average positive working capital position and an average positive net asset position during the period 2009 through 2010. Also, the facility achieved an average excess of revenues over expenses of \$21,457,610 during the period 2009 through 2010, which was mostly due to appropriations from the State of New York of \$42,448,820 and \$51,439,866 during 2009 and 2010, respectively.

Presented as BFA Attachment B is the 2008 and 2009 certified financial statements of University Hospital of the State University of New York. As shown, the facility had an average positive working capital position and an average positive net asset position during 2008 and 2009. Also, the facility incurred an average excess of revenues over expenses of \$(8,061,778) during 2008 and 2009. The reasons for the 2008 loss was primarily caused by significant write down of old accounts receivable and a negotiated salary increase related to 2007 paid in 2008, which totaled \$6,400,000 and also non recurring rate adjustments totaling \$16,200,000. To address this, the three SUNY Hospitals are implementing an integrated process that will leverage its future supply purchases.

Presented as BFA Attachment C are the 2008 and 2009 certified financial statements of Community General Hospital of Greater Syracuse. As shown on Attachment C, the facility had an average positive working capital position and an average positive net asset position during the period shown. Also, the facility incurred an excess of revenues over expense of \$(1,249,658) and \$(2,030,825) during 2008 and 2009. The reasons for the historical losses are as follows: decline in patient volumes; contractual obligations with labor unions, and constrained reimbursement rates from third party payers, including Medicare and Medicaid.

Presented as BFA Attachment D are the 2010 internal financial statements of Community General Hospital of Greater Syracuse. As shown, the facility had a positive working capital position and a positive net asset position through December 31, 2010. Also, the facility incurred an excess of revenues over expenses of \$(1,609,422) through December 31, 2010. The reasons for the historical losses were the following: decline in patient volumes; contractual obligations with labor unions and constrained reimbursement rates from third party payers, including Medicare and Medicaid.

Presented as BFA Attachment F are the inpatient and outpatient statistics for Upstate University Hospital and Community General Hospital of Greater Syracuse from 2010 to 2014, of which inpatient admissions excludes newborn.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary 2009 Certified Financial Statements and 2010 Internal Financial Statements of University Hospital of SUNY
BFA Attachment B	Summary 2008 and 2009 Certified Financial Statements of University Hospital of SUNY
BFA Attachment C	Financial Summary 2008 and 2009 Certified Financial Statements of Community General Hospital of Greater Syracuse
BFA Attachment D	Financial Summary 2010 Internal Financial Statements of Community General Hospital of Greater Syracuse
BFA Attachment E	Pro Forma Balance Sheet
BFA Attachment F	Inpatient and Outpatient Historical and Forecasted Data
HSA Attachment A	Central New York Health Systems Agency, Inc. Recommendation

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Ambulatory Surgery Center - Construction

Exhibit #4

	<u>Number</u>	<u>Applicant/Facility</u>
1.	102221 C	NYU Hospitals Center (New York County)
2.	102364 C	NYU Hospitals Center (New York County)
3.	101112 C	Nathan Littauer Hospital Ambulatory Surgery Center (Fulton County)



Public Health and Health Planning Council

Project # 102221-C
NYU Hospitals Center

County: New York (New York)
Purpose: Construction

Program: Ambulatory Surgery Center
Submitted: September 23, 2010

Executive Summary

Description

New York University Hospitals Center (NYU), an 879-bed not-for-profit hospital located in New York County, requests approval to create an extension clinic for its Women’s Health Care Center, which is part of the New York Hospital. The extension clinic will be located at 1431 Third Ave., Manhattan.

The new comprehensive Women’s Health Care Center will allow NYU to consolidate and expand the delivery of multi-disciplinary outpatient health services, such as: breast ultrasound, screening and diagnostic mammography; bone density tests; non-invasive cardiology testing; and gastroenterology intestinal procedures such as endoscopies and colonoscopies.

Currently, all of these services are offered at NYU, but services and support are located throughout various parts of the hospital and in different departments. This proposal allows for women to schedule their screenings in advance and consolidate services, allowing patients to move more rapidly through the system, creating more efficient scheduling and registration practices.

There will be no changes in the operating certificate of New York University Hospitals Center as a result of this application.

Total project costs are estimated at \$4,535,655.

DOH Recommendation
Contingent approval.

Need Summary

The center is being planned to serve current NYU's patients who reside and/or work on the Upper East Side and West Side of Manhattan as well as NYU's patients who choose to access services in a single

location. The site will also be open to new patients that choose to utilize the services at the facility.

The opening of the new clinic will allow the applicant to decant some of its diagnostic and screening mammography volumes, thus, enabling the facility to serve its current patient population in a more expedient manner.

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 will be met via cash equity.

Incremental Budget:	Revenues:	\$ 7,434,124
	Expenses:	<u>3,418,495</u>
	Gain/(Loss):	\$ 4,015,629

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

Architectural Summary

This project involves the 6,500 SF renovation of the third floor of an existing 4-story building into a new comprehensive Women’s Health Center.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

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

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
3. The applicant shall complete construction by December 31, 2013. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

New York University Hospitals Center (NYU) is an 879-bed acute care facility located at 550 First Avenue, New York. NYU has the following certified beds and services.

<u>Certified Beds</u>	
Coronary Care	6
Intensive Care	37
Maternity	36
Medical/Surgical	449
Neonatal Intensive Care	7
Neonatal Intermediate Care	18
Pediatric	39
Pediatric ICU	9
Physical Medicine and Rehabilitation	174
Psychiatric	22
Special Use	82
Total	879

<u>Licensed Services</u>	
Ambulatory Surgery-Multi Specialty	Medical Social Services
Cardiac Catheterization-Pediatric Diagnostic	Nuclear Medicine-Therapeutic
Coronary Care	Physical Medicine and Rehabilitation O/P
Magnetic Resonance Imaging	Radiology-Therapeutic
Neonatal Resonance Imaging	Therapy-Physical O/P
Pharmaceutical Service	Cardiac Catheterization-Adult Diagnostic
Psychology O/P	Cardiac Surgery-Pediatric
Respiratory Care	Intensive Care
Transplant-Kidney	Medical/Surgical
Audiology O/P	Pediatric
Cardiac Catheterization-Percutaneous Coronary Intervention (PCI)	Primary Medical Care O/P
Emergency Department	Renal Dialysis-Acute
Maternity	Therapy-Speech Language Pathology
Nuclear Medicine-Diagnostic	Cardiac Catheterization-Electrophysiology (EP)
Physical Medical Rehabilitation	Clinical Laboratory Service
Radiology-Diagnostic	Linear Accelerator
Therapy-Occupational O/P	Neonatal Intensive Care
Transplant-Liver	Pediatric Intensive Care
CT Scanner	Psychiatric
Cardiac Surgery-Adult	Renal Dialysis-Chronic (5)
Epilepsy Comprehensive Services	Therapy-Vocational Rehabilitation O/P

The facility seeks CON approval to add an Article 28 extension clinic to be named NYU Women's Health Center to its current operating certificate.

<u>Proposed Services: NYU Women's Health Center</u>	
Ambulatory Surgery - Gastroenterology	Radiology - Diagnostic

New York University Hospitals Center is authorized to operate 9 hospital extension clinics in its service area providing services such as Ambulatory Surgery, Occupational and Physical Therapy, Pediatric, Physical Medicine and

Rehabilitation, Psychology, Medical Social Services, Certified Mental Health Services, Primary Medical Care, Diagnostic Radiology, Diagnostic Nuclear Medicine, Magnetic Resonance Imaging, and PET Scanner.

New York State Designations:

- Regional Perinatal Center; and
- Stroke Center.

Analysis

The hours of operation of the NYU Women's Health Center Extension Clinic will be 8:00 am to 5:00 pm from Monday – Friday. This extension clinic will function as a department of the NYU Hospitals Center; therefore, NYU Hospitals Center will provide oversight on its quality of care, including credentialing, utilization and quality assurance monitoring.

NYUHC is decanting some of its women's outpatient services to this new clinic. The facility anticipated that about 8,500 tests would be shifted during the clinic's first year of operation. By year 3, the clinic will perform about 11,150 tests.

NYUHC states that the creation of this extension clinic will enable patients using the clinic to have better and timelier access to screening and testing services. This will make for early detection of disease, which will improve survival and limit morbidity.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

NYU Hospitals Center, a not-for-profit corporation, requests approval to certify a women's health extension clinic at 1491 Third Avenue, Manhattan, for the provision of diagnostic radiology and gastroenterology ambulatory surgery procedures. The center will be in operation from 8:00 am to 5:00 pm Monday through Friday. Staffing will consist of 13.6 FTEs, including technicians and registered nurses.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

Character and Competence

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

Lease Agreement

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

Premises: 28,974 sq. ft. located at 1491 Third Avenue at 84th Street, Manhattan, NY
Lessor: FSM Holdings, LLC (33.34%), DMZ III, LLC (33.33%), SM 84th TIC, LLC (33.33%)
Lessee: NYU Hospitals Center
Term: 15 years
Rental: \$77,326 annually
Provisions: Taxes will be paid by the tenant based on square footage. Also, tenant will pay utilities and cleaning expense. Tenant will be permitted to affix plaque or sign to the premises. Escalation of 2.25% per year is included in the lease agreement.

The applicant has submitted two letters indicating rent reasonableness. Also, there is no relationship between the lessor and lessee.

Total Project Cost and Financing

Total project cost, which is for the renovation and moveable equipment, is estimated at \$4,535,655 broken down as follows:

Renovation and Demolition	\$2,340,689
Design Contingency	234,068
Construction Contingency	234,068
Architect Fees	190,000
Moveable Equipment	1,120,031
Telecommunications	390,000
Application Fee	2,000
Additional Processing Fee	<u>24,799</u>
Total Costs	\$4,535,655

Project cost is based on a May 1, 2011 start date and an eight month implementation period.

Operating Budget

The applicant has submitted an incremental operating budget, in 2010 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$5,212,419	\$7,434,124
Expenses:		
Operating:	\$2,477,535	\$3,205,930
Capital:	<u>201,293</u>	<u>212,565</u>
Total Expenses:	\$2,678,828	\$3,418,495
Excess Revenues:	\$2,533,591	\$4,015,629
Utilization: (Visits)	8,118	10,021
Cost Per Visit:	\$329.99	\$341.13

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

	<u>Year One</u>	<u>Year Three</u>
Medicaid-Fee-For-Service	3%	3%
Medicaid Managed Care	3%	3%
Medicare Fee-For-Service	44%	43%
Medicare Managed Care	3%	3%
Commercial Fee-For-Service	4%	5%
Commercial Managed Care	43%	43%

Utilization and expense assumptions are based on historical experience of the existing operation at NYU.

Capability and Feasibility

The hospital will finance \$4,535,655 via cash equity. Presented as BFA Attachment A, is a financial summary of NYU Hospital Center, which indicates the availability of sufficient funds for the equity contribution.

The submitted incremental budget projects excess revenues over expenses of \$2,533,591 and \$4,015,629 during the first and third years, respectively. The applicant’s revenues reflect current reimbursement methodologies and rates of payment for women’s health center services, which are currently provided at the hospital.

Presented as BFA Attachment A, is a financial summary of the New York University Hospitals Center. As shown on BFA Attachment A, NYU maintained an average positive working capital position and an average positive net asset position during the period shown. Also, the facility achieved an average annual excess of operating revenues over expenses of \$97,386,500 during the period shown.

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

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

The project will consist of the 6,500 SF renovation of the third floor of an existing building into a new comprehensive Women’s Health Center. The Center will include an imaging center component comprised of two mammography rooms, an ultrasound room and a Dexa Scan room. The imaging center will also include a gowned waiting area with three dressing rooms. There will also be a medical component including an echo room, an echo stress room, an exam room and a consultation room. The third component, the procedure suite, includes two procedure rooms, a recovery room with three bays and decontamination and scope cleaning rooms. The entire floor will be supported by a central reception area, waiting area and administrative spaces. Support spaces include clean and soiled holding rooms, staff lounge and equipment rooms. The project also includes new roof-top mounted HVAC infrastructure, controls and distribution, new telecommunications infrastructure and distribution, and new electrical infrastructure and distribution. The building will have a fire alarm system and will be fully sprinklered.

Environmental Review

The Department has deemed this project to be a TYPE II Action that will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary, NYU Hospital's Center
BFA Attachment B	Summary Detailed Budget
BHFP Attachment	Map



Public Health and Health Planning Council

Project # 102364-C
NYU Hospitals Center

County: Queens (Rego Park)
Purpose: Construction

Program: Ambulatory Surgery Center
Submitted: November 10, 2010

Executive Summary

Description

New York University Hospitals Center (NYU), an 879-bed not-for-profit hospital located in New York County, requests approval to offer expanded services at its multi-specialty ambulatory center practice, located at 97-77 Queens Boulevard, Rego Park.

The applicant currently provides radiology and transfusion services at the site, and proposes to add gastroenterology intestinal endoscopy, pain management, ultrasound, and physical therapy services. Currently, all of these services are offered at NYU, but services and support are located throughout various parts of the hospital and in different departments. Also, due to the aging population, utilization of services are projected to increase and many of the patients would be closer to the extension clinic than the hospital. This would allow NYU to consolidate services, allowing patients to move more rapidly through the system, creating more efficient scheduling and registration practices.

There will be no changes in the operating certificate of NYU Hospitals Center as a result of this application.

Total project costs are estimated at \$1,898,848.

DOH Recommendation
Contingent approval.

Need Summary

The projected utilization in the first year is a combined total of 19,424 patient visits. This volume is based on the proposed transfer of Queens County residents from NYU Hospitals Center and Rusk Institute to the extension clinic in Queens.

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 will be met via cash equity.

Incremental Budget:	<i>Revenues:</i>	\$ 13,159,046
	<i>Expenses:</i>	<u>9,432,286</u>
	<i>Gain/(Loss):</i>	\$ 3,726,760

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

Architectural Summary

This project involves the construction of a 4,021 SF new extension clinic/ambulatory surgery center. The facility will be constructed in space located on the fourth floor of an existing 13-story office building.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a signed agreement with an outside independent entity satisfactory to the Department to provide annual reports to the Department of Health beginning in the second year of operation. Said reports shall include:
 - Data showing actual utilization including procedures;
 - Data showing breakdown of visits by payor source;
 - Data showing number of patients who needed follow-up care in a hospital within seven days after ambulatory surgery;
 - Data showing number of emergency transfers to a hospital;
 - Data showing percentage of charity care provided; and
 - Number of nosocomial infections recorded during the year in question. [RNR]
3. Submission by the governing body of the ambulatory surgery center of an Organizational Mission Statement which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
4. Submission of the statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with consultation of the legal counsel, and it is concluded that proceeding with the proposal is acceptable. [RNR]
5. Provide Certification of compliance with CMS requirements for separation of Ambulatory Surgery and Support spaces. [AER]
6. Provide separation of exits to facilitate separate smoke compartments for each stair by means of a cross corridor smoke door or other alternate means of compliance acceptable to the Department. [AER]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's request for, and Department's granting approval for the start of construction. [AER]
3. The applicant shall complete construction by May 2013. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

NYU Hospitals Center requests approval to expand an existing Article 28 extension clinic, NYU Langone Medical Center at Columbus Medical at 97-85 Queens Boulevard, in Rego Park. The proposed expansion will include multi-specialty ambulatory surgery (colonoscopy, endoscopy, and pain management procedures) plus a CT scanner, physical medicine and rehabilitation, physical therapy, and limited transfusion services.

<u>Certified Beds</u>	
Coronary Care	6
Intensive Care	37
Maternity	36
Medical/Surgical	449
Neonatal Intensive Care	7
Neonatal Intermediate Care	18
Pediatric	39
Pediatric ICU	9
Physical Medicine and Rehabilitation	174
Psychiatric	22
Special Use	82
Total	879

<u>Licensed Services</u>	
Ambulatory Surgery-Multi Specialty	Medical Social Services
Cardiac Catheterization-Pediatric Diagnostic	Nuclear Medicine-Therapeutic
Coronary Care	Physical Medicine and Rehabilitation O/P
Magnetic Resonance Imaging	Radiology-Therapeutic
Neonatal Resonance Imaging	Therapy-Physical O/P
Pharmaceutical Service	Cardiac Catheterization-Adult Diagnostic
Psychology O/P	Cardiac Surgery-Pediatric
Respiratory Care	Intensive Care
Transplant-Kidney	Medical/Surgical
Audiology O/P	Pediatric
Cardiac Catheterization-Percutaneous Coronary Intervention (PCI)	Primary Medical Care O/P
Emergency Department	Renal Dialysis-Acute
Maternity	Therapy-Speech Language Pathology
Nuclear Medicine-Diagnostic	Cardiac Catheterization-Electrophysiology (EP)
Physical Medical Rehabilitation	Clinical Laboratory Service
Radiology-Diagnostic	Linear Accelerator
Therapy-Occupational O/P	Neonatal Intensive Care
Transplant-Liver	Pediatric Intensive Care
CT Scanner	Psychiatric
Cardiac Surgery-Adult	Renal Dialysis-Chronic (5)
Epilepsy Comprehensive Services	Therapy-Vocational Rehabilitation O/P

Utilization

<u>Ambulatory Surgery Utilization</u>			
<u>Physicians</u>	<u>Specialty</u>	<u>1st Year</u>	<u>3rd Year</u>
Dr. Poppers	Gastroenterology	167	208
Dr. Gurvits	Gastroenterology	233	274

Utilization		
<i>Proposed Services</i>	<i>1st Year</i>	<i>3rd Year</i>
Physical Medicine & Rehabilitation	856	907
Physical Therapy	15,834	16,816

NYU reports that these rehabilitation and physical therapy services are currently provided to patients from Queens at the Rusk Institute. The gastroenterology and pain management procedures are provided at the NYU Hospitals Center in Manhattan.

The transfer of these services to the Rego Park area of Queens will improve access to care for NYU patients from Queens.

Ambulatory Surgery Utilization			
<i>Facility</i>	<i>OR's</i>	<i>Procedure Rooms</i>	<i>2009 Utilization</i>
Boulevard Surgical Center	5		2,959
Choices Women's Medical Center	4		9,641
Hillside D&TC	1	2	1,309
Mackool Eye Institute	4	1	7,001
Physician Choice Surgicenter	2		1,164
Queens Surgi-Center	5		5,525

Source: SPARCS

Conclusion

Based on their ability to improve access to gastroenterology services, approval is recommended for a limited life of five years from the date of issuance of an operating certificate.

Recommendation

From a need perspective, contingent approval is recommended for a limited life of five years.

Programmatic Analysis

Background

NYU Hospitals Center, an existing acute care hospital, requests approval to add services to an existing extension clinic located at 97-77 Queens Boulevard, Queens. The hospital is requesting to add multi-specialty ambulatory surgery, CT scanner, physical medical rehabilitation, physical therapy, and limited transfusion services. Concurrently, the Department of Health will correct an oversight and include full transfusion services on the operating certificate, a service which was requested in a previous certificate of need application. Staffing is expected to increase by 21 FTEs with the addition of services.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

Character and Competence

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.

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

Lease Agreement

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

- Premises:* 4,021 located at 97-77 Queens Boulevard, Rego Park, New York
- Lessor:* Federal Realty, LP
- Lessee:* NYU Hospitals University
- Term:* 7.5 Years (expires July 31, 2018)
- Rental:* \$299,289 annually - (First three years) \$317,516 annually after year years, fixed until renewal.
- Provisions:* Taxes will be paid by the tenant based on square footage. Also, tenant will pay utilities and cleaning expense. Tenant will be permitted to affix plaque or sign to the premises.

The applicant has submitted two letters indicating rent reasonableness. Also, there is no relationship between the lessor and lessee.

Total Project Cost and Financing

Total project cost, which is for the renovation and moveable equipment, is estimated at \$1,898,848, itemized as follows:

Renovation and Demolition	\$1,283,400
Design Contingency	64,170
Construction Contingency	128,340
Architect Fees	123,380
Moveable Equipment	287,182
Application Fee	2,000
Additional Processing Fee	<u>10,376</u>
Total Costs	<u>\$1,898,848</u>

Project cost is based on a October 1, 2011 start date, and an eight month implementation period. The applicant will pay for this project via cash.

Operating Budget

The applicant has submitted an incremental operating budget, in 2011 dollars, for the first and third years of operating, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$12,403,663	\$13,159,046
Expenses:		
Operating:	\$8,779,205	\$8,988,939
Capital:	<u>425,120</u>	<u>443,347</u>
Total Expenses:	<u>\$9,204,325</u>	<u>\$9,432,286</u>

Excess Revenues:	\$3,199,338	\$3,726,760
Utilization: (Visits)	23,524	25,406
Cost Per Visit:	\$391.27	\$371.26

Presented as BFA Attachment B, is a detailed budget summary for NYU Medical Center.

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

	<u>Years One and Three</u>
Medicaid Managed Care	15%
Medicare Fee-For-Service	1%
Medicare Managed Care	27%
Commercial Fee-For-Service	52%
Private Pay	5%

Utilization and expense assumptions are based on historical experience of the existing operation at NYU.

Capability and Feasibility

The hospital will finance \$1,898,848 via cash equity. Presented as BFA Attachment A, is a financial summary of NYU Hospital Center, which indicates the availability of sufficient funds for the equity contribution.

The submitted incremental budget projects excess revenues over expenses of \$3,199,338 and \$3,726,760, during the first and third years, respectively. The applicant's revenues reflect current reimbursement methodologies and rates of payment for women's health center services, which are currently provided at the hospital.

Presented as BFA Attachment A is a financial summary of the New York University Hospitals Center. As shown on BFA Attachment A, NYU maintained an average positive working capital position and an average positive net asset position during the period shown. Also, the facility achieved an average annual excess operating revenues over expenses of \$85,857,500 during the period shown.

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

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

The new extension clinic/ambulatory surgery center project will consist of 4,021 SF of renovations to the fourth floor and will include GI endoscopy, pain management, ultrasound, and physical therapy.

There will be two GI procedure rooms and one pain management procedure room with dedicated decontamination and instrument cleaning rooms connected to a 3-bay recovery area with central nurse station. Also included are three ultrasound rooms, a physical therapy room with 10 treatment cubicles, patient toilets, a janitor's closet, and soiled and clean utility holding rooms.

While the Department does not enforce CMS Guidelines, separation of functions does not appear to be consistent with the requirements of CMS. The shared waiting room, recovery area, and adjacencies of programmatic areas do not appear consistent with CMS requirements for Ambulatory Surgery.

The exit separation and alternate means of egress requirements of NFPA 101 1997 are not met.

Environmental Review:

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, contingent approval is recommended.

<h2>Attachments</h2>

- | | |
|------------------|--|
| BFA Attachment A | Financial Summary for NYU Hospitals Center |
| BFA Attachment B | Summary Detailed Budget |
| BHFP Attachment | Map |



Public Health and Health Planning Council

Project # 101112-B Nathan Littauer Hospital Ambulatory Surgery Center

County: Fulton (Johnstown)

Program: Ambulatory Surgery Center

Purpose: Establishment and Construction

Submitted: April 28, 2010

Executive Summary

Description

Nathan Littauer Hospital (NLH), a 74-bed not-for-profit hospital, located in Fulton County, requests approval for the licensure of an extension clinic that will operate as a multi-specialty ambulatory surgery center (ASC) to be located at 137 Country Highway 128, Johnstown. The hospital will acquire the site now operated as Cataract Care Ambulatory Surgery Center, a licensed Article 28 ASC, and will be called Nathan Littauer Hospital Ambulatory Surgery Center upon completion of this CON. The facility consists of three operating rooms and will provide multi-discipline surgical services to the community.

This application is necessary to enable the applicant to respond to a number of access problems in the community. Some of the growing volume of surgeries performed at Nathan Littauer Hospital's operating rooms (ORs) will be performed at the freestanding ASC, along with the current eye surgeries, following approval of this project. Currently only one of the three OR's at the ASC is equipped. This application proposes to fully equip the two unused OR's and make associated minor renovations.

Total project costs are estimated at \$1,547,108.

DOH Recommendation

Contingent approval for a 5-year limited life.

Need Summary

Nathan Littauer Hospital's existing surgeons and one new orthopedic surgeon are expected to perform 2,249 procedures in the first year.

There will be no impact on the utilization of ambulatory surgical services at St. Mary's Hospital of Amsterdam.

Program Summary

Based on the information reviewed, the hospital is in substantial current compliance with Section 2802-(3)(e) of the New York State Public Health Law and has provided substantially consistent high level of care.

Financial Summary

Project costs will be met via equity from hospital operations.

Incremented Budget:	<i>Revenues:</i>	\$ 5,286,003
	<i>Expenses:</i>	<u>2,099,251</u>
	<i>Gain/(Loss):</i>	\$ 3,186,752

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

Architectural Summary

The applicant proposes to convert a former Article 28 single specialty ASC to a multi-specialty ambulatory surgery extension clinic of the hospital. The facility is a single story structure comprising a total of 9,815 square feet of space, of which the ASC occupies 9,134 square feet. A private physician office occupies the remainder of the space.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval for a limited life of 5 years from the date of issuance of an operating certificate is recommended contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a signed agreement with an outside independent entity satisfactory to the Department to provide annual reports to the Department of Health beginning in the second year of operation. Said reports shall include:
 - Data showing actual utilization including procedures;
 - Data showing breakdown of visits by payor source;
 - Data showing number of patients who need follow-up care in a hospital within seven days after ambulatory surgery;
 - Data showing number of emergency transfers to a hospital;
 - Data showing percentage of charity care provided, and
 - Number of nosocomial infections recorded during the year in question. [RNR]
3. Submission by the governing body of the ambulatory surgery center of an organizational Mission Statement which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
4. Submission of the statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with consultation of the legal counsel, and if it is concluded that proceeding with the proposal is acceptable. [RNR, CSL]
5. Submission of a signed statement confirming staff of the Center will be separate and distinct from staff of other entities. [HSP]
6. Submission of a signed statement confirming signage that clearly denotes the center is separate and distinct from other adjacent entities. [HSP]
7. Submission of a signed statement confirming the entrance to the center does not disrupt any other entity's clinical program space. [HSP]
8. Submission of signed statement confirming the clinical space will be used exclusively for this purpose. [HSP]
9. Submission of a Certificate of Assumed Name for the facility, Nathan Littauer Hospital Ambulatory Surgery Center that is acceptable to the Department. [CSL]
10. Clarification on which entity is operating Nathan Littauer Hospital Ambulatory Surgery Center that is acceptable to the Department. [CSL]
11. A copy of the Certificate of Amendment of the Certificate of Incorporation filed February 2, 1951. [CSL]
12. Submission of a completed Schedule 14C that is acceptable to the Department. [CSL]
13. Submission of the bylaws for Nathan Littauer Hospital Association or Nathan Littauer Hospital Ambulatory Surgery Center that is acceptable to the Department. [CSL]
14. Clarification on Fulton County Ambulatory Surgery Center, Inc. activity and location. [CSL]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the start of construction. [AER]
3. The applicant shall complete construction by July 31, 2011. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Applicant Background

Nathan Littauer Hospital operates the following beds and services:

<u>Certified Beds</u>	
Intensive Care	8
Maternity	7
Medical/Surgical	47
Pediatric	12
<i>Certified Beds Total</i>	<i>74</i>

<u>Licensed Services</u>	
Ambulatory Surgery-Multi Specialty	Maternity
CT Scanner	Medical Social Services
Clinic Part Time Services	Medical/Surgical
Clinical Laboratory Service	Nuclear Medicine-Diagnostic
Coronary Care	Pediatric
Emergency Department	Pharmaceutical Service
Intensive Care	Primary Medical Care O/
Magnetic Resonance Imaging	Radiology-Diagnostic

<u>Hospital Extension Clinics</u>	
Caroga Lake Primary Care Center 1840 State Highway 10 Caroga Lake, New York 12032	Johnstown Medical Center 21-23 S. Perry Street Johnstown, New York 12095
Mayfield Primary Care Center Route 30 Mayfield, New York 12117	Nathan Littauer Hosp Primary Care Clinic
Perth-Broadalbin Primary Care Center 4104 State Highway 30 Perth, New York 12010	Primary Care Center at Speculator Route 8 Speculator, New York 12164
Steele Avenue Primary Care Center 182 Steele Avenue Gloversville, New York 12078	

Project Description

Nathan Littauer Hospital requests approval to certify an extension clinic at 135 County Route 128, Johnstown, that will operate as a multi-specialty ambulatory surgery center.

The applicant states that the new ASC will improve OR access for surgeons, who will be able to schedule O.R. time convenient to their practices and without disruption from inpatient cases and emergencies. This will help ensure that surgeries occur as scheduled and at greater convenience for patients.

The hospital will acquire the site now operated at the Cataract Care Ambulatory Surgery Center, a single-specialty A-28 ASC. The facility consists of three operating rooms. One operating room is currently equipped, the applicant plans to equip the other two operating rooms as part of this project.

First and Third Year Utilization by Specialty and Surgeon				
<u>Surgeon</u>	<u>Specialty</u>	<u>1st Year</u>	<u>3rd Year</u>	
John Kearney, MD	Ophthalmologist	648	648	
New Orthopedic Surgeon		352	538	
Jian Shen, MD	Orthopedist			
Bradley Paddock, MD	ENT	150	150	
Thomas Eagan, MD	Orthopedist	200	200	
Michael Mairs, MD	Ophthalmologist	150	150	
Jonathan Nickel, MD	Ophthalmologist	100	100	
David Kwiat, MD	Ophthalmologist	250	250	
John Fox, DDS	Dental Surgery	30	30	
John Mycek, MD	GYN	30	30	
David Handron, MD	General Surgery	150	150	
Nicholas Filippone, MD	General Surgery	50	50	
Huseyin Sahin, MD	General Surgery	25	25	
Patricia Nguyen, MD	GYN	25	25	
Peter Dowling, MD	GYN	25	25	
Andrew Samach, MD	GYN	25	25	
Michael Martynik, MD	Urology	25	25	
Gregory Nellis, DPM	Podiatry	14	14	
Total		2249	2435	

Dr. Kearney is the ophthalmologist who currently performs 648 procedures at the Cataract Care ASC. The new orthopedist, Dr. Shen, has just completed his training in minimally invasive spinal surgery. He has joined an orthopedic group in Amsterdam and will practice at both Nathan Littauer and St. Mary's Hospitals. Dr. Shen will bring a new specialty to the Fulton/Montgomery area and expects to perform 350 ambulatory surgery procedures in the first year. The other 1,249 procedures are currently performed at Nathan Littauer Hospital.

As stated in the application, the surgical suite at Nathan Littauer Hospital consists of four operating rooms and two procedure rooms, with inpatient and ambulatory surgery cases distributed as follows:

<u>Hospital Procedures</u>	<u>2008</u>	<u>2009</u>
Inpatient	759	812
Ambulatory	4,067	4,478
Total	4,826	5,290

The transfer of some 1,249 procedures from the hospital to the proposed ASC will reduce by 30 percent the number of ambulatory surgery procedures currently performed at the main hospital site.

Analysis

A review of ambulatory surgery services in Fulton and Montgomery Counties shows the following five-year distribution of procedures:

Comparative Report on Ambulatory Surgery Procedures						<u>Percent change</u>
<u>Hospital</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2005-2009</u>
Nathan Littauer Hospital	3,532	3,925	3,745	4,067	4,478	+26.8%
St. Mary's Hospital Amsterdam	5,512	6,154	6,730	6,725	8,160	+48.0%
Amsterdam Memorial	3,199	2,930	2,451	2,288	751	-76.5%
Total	12,243	13,009	12,926	13,080	13,389	+9.4%

Source: SPARCS 2005-2009

For the hospitals in Fulton and Montgomery County, the volume of ambulatory surgery cases grew by 9.4 percent from 2005 to 2009. The number of ambulatory surgery cases at Nathan Littauer Hospital grew by 26.8 percent during this period. Amsterdam Memorial Hospital closed June 1, 2009 and St. Mary's Hospital absorbed this surgical volume. In 2009, there was an increase of 1,435 ambulatory surgery cases at St. Mary's following the closure of Amsterdam Memorial.

At the same time that ambulatory surgery volume has increased, the volume of inpatient surgical discharges in the area has decreased. For Nathan Littauer and St. Mary's Hospitals combined, the volume of inpatient surgical discharges declined by 12.1 percent from 2005-2009:

Comparative Report on Inpatient Surgical Procedures						<i>Percent change</i>
<i>Hospital</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2005-2009</i>
Nathan Littauer Hospital	963	905	781	759	737	-23.5%
St. Mary's Hospital Amsterdam	2,265	2,142	2,295	2,063	2,099	-7.3%
Total	3,228	3,047	3,076	2,822	2,836	-12.1%

Source: SPARCS 2005-2009

Although the population for these counties is not growing, the percentage of the population over 65 years of age is significantly higher than that of New York State as a whole. Because the population over 65 is a key factor in the utilization of ambulatory surgery procedures, the growth in ambulatory surgery in Fulton and Montgomery counties is attributable at least in part to the larger portion of older persons in the counties' population.

<i>County/State</i>	<i>Total Population</i>	<i>65+</i>
Fulton	55,053	16.0%
Montgomery	48,616	17.3%
New York State	19,541,453	13.4%

Source: U.S. Census

Conclusion

In view of the large number of cases readily transferable from Nathan Littauer's main site to the proposed off-site ASC, together with the cases performed at the site under its current ownership, and the 350 cases to be brought by the newly arrived orthopedist, the proposed ASC will have sufficient volume to warrant its operation as proposed in this application. With full use of its three operating rooms, the proposed facility will serve as a significant resource for more accessible surgical care in the area. The increase in ambulatory surgery procedures at Nathan Littauer by more than 25 percent over the past five years also supports the notion that the hospital and its current sources of patients will be sufficient to sustain the proposed ASC without the need to take cases from other providers or to rely on an uncertain number of referrals from areas outside Fulton, Montgomery and Hamilton counties, whence the hospital currently draws the vast majority of its surgical cases.

In response to speculation that the proposed ASC would draw surgical cases from St. Mary's Hospital, the Department notes that that facility has a larger surgical patient base than Nathan Littauer and experienced a growth rate in ambulatory surgery procedures of 22.0% percent over four years, even before the absorption of Amsterdam Memorial's surgical cases. This also occurred while Nathan Littauer Hospital was experiencing a five-year growth rate in ambulatory surgical procedures of 26.8% but on a smaller patient base. It is the Department's conclusion that there is sufficient demand for ambulatory surgical services in the Fulton-Montgomery county area to support robust ambulatory surgical programs at both St. Mary's Hospital and Nathan Littauer Hospital, including at the off-site Nathan Littauer ASC proposed in this application. This is especially true in view of the high proportion of older persons in the Fulton-Montgomery area.

Recommendation

From a need perspective, contingent approval is recommended for a limited life of five years.

Programmatic Analysis

Program Description

Staffing will consist of 10.6 FTEs and is projected to expand to 11.5 FTEs by the end of the third year and includes physicians, technicians, and registered and licensed practical nurses under the supervision of a medical director. The proposed quantity of the staffing is appropriate to the scope and nature of services to be provided.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

Character and Competence

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

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Background

The applicant has submitted an executed building acquisition agreement, which is summarized below:

<i>Premises:</i>	The land, building and improvements located at 135-137 County Highway 128, Town of Johnstown, New York.
<i>Seller:</i>	John R Kearney, MD., Eye Physician and Surgeon, P.C.
<i>Purchaser:</i>	Nathan Littauer Hospital Association
<i>Purchase Price:</i>	\$900,000
<i>Payment of Purchase Price:</i>	Cash at Closing

Total Project Cost and Financing

Total project cost, which is for building acquisition, renovations and the acquisition of moveable equipment, is estimated at \$1,547,108, further broken down as follows:

Building Acquisition	\$ 900,000
Renovation & Demolition	140,000
Design Contingency	14,000
Construction Contingency	14,000
Architect/Engineering Fees	12,000
Other Fees (Consultant)	10,000
Moveable Equipment	446,656
CON Fee	2,000
Additional Processing Fee	<u>8,452</u>
Total Project Cost	<u>\$1,547,108</u>

Project costs are based on a May 1, 2011 construction start date and a two-month construction period.

The applicant will provide equity from operations to meet the total project cost. The building being purchased is currently in the Article 28 system.

Operating Budget

The applicant has submitted an incremental operating budget for the hospital, in 2010 dollars, for the first and third years, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$4,805,457	\$5,286,003
Expenses:		
Operating	\$1,820,737	\$1,998,811
Capital	<u>100,440</u>	<u>100,440</u>
Total Expenses	\$1,921,177	\$2,099,251
Excess of Revenues over Expenses	\$2,884,280	\$3,186,752
Utilization:		
Procedures	2,249	2,435
Cost Per Procedure	\$854.24	\$862.11

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

	<u>Year One</u>	<u>Year Three</u>
Medicaid-Fee-For Service	2.26%	2.29%
Medicaid Managed Care	11.11%	11.29%
Medicare Fee-For-Service	36.63%	37.20%
Medicare Managed Care	18.76%	19.05%
Commercial Fee-For-Service	1.86%	1.88%
Commercial Managed Care	24.36%	24.76%
Private Pay	.66%	.69%
Charity Care	2.75%	2.79%
Other	1.61%	.05%

Expense and utilization assumptions are based on the hospital's historical experience and the current ASC historical experience. Incremental procedures are the result of the hospital relocating some procedures to the extension clinic, current cases done at the clinic and additional procedures to be realized. The applicant has indicated that 1,249 procedures are currently being performed at the hospital.

Capability and Feasibility

The applicant will provide equity via operations to meet the total project and building acquisition cost. Presented as BFA Attachment A are the June 30, 2010 internal financial statements of Nathan Littauer Hospital Association, which indicates the availability of sufficient funds for the equity contribution.

The submitted budget indicates an excess of revenues over expenses of \$2,884,280 and \$3,186,752 during the first and third years, respectively. Revenues are based on current reimbursement rates for the ASC.

As shown on Attachment A, the hospital had a positive working capital position and a positive net asset position during October 31, 2010. Also, the applicant achieved an excess of revenues over expenses of \$2,324,685 during the period October 31, 2010.

Presented as BFA Attachment B is the 2008 and 2009 certified financial statements of Nathan Littauer Hospital Association. As shown, the hospital had an average positive working capital position and an average positive net asset position. Also, the hospital achieved an average excess of revenues over expenses of \$2,649,446 during 2008 and 2009.

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

The 9,134 SF facility includes a reception and waiting area with toilet room, 3 ORs, 6 pre-op/recovery bays, two phase II recovery bays, nurse station, soiled and clean utility rooms, staff lounge, locker rooms, and support spaces. Renovations will include HVAC and exhaust modifications, a medical gas upgrade, circuitry work for a back-up generator, connection to the municipal water system and interior wall partitioning for a laboratory workroom.

Environmental Review

The Department has deemed this project to be a TYPE II Action which will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary- June 30, 2010 Internal Financial Statements of Nathan Littauer Hospital Association
BFA Attachment B	Financial Summary- 2008 and 2009 certified financial statements of Nathan Littauer Hospital Association
BHFP Attachment	Map

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Hospice - Construction

Exhibit #5

	<u>Number</u>	<u>Applicant/Facility</u>
1.	102407 C	Hospice of Orleans, Inc. (Orleans County)



Public Health and Health Planning Council

Project # 102407-C
Hospice of Orleans, Inc.

County: Orleans (Albion)
Purpose: Construction

Program: Hospice Services
Submitted: November 15, 2010

Executive Summary

Description

Hospice of Orleans, Inc., an existing not-for-profit corporation, requests approval to certify and construct an 8-bed hospice residence with one of the beds being dually-certified for inpatient care as well. The proposed facility will be located at 14080 Route 31 West, Albion, on land already owned by the corporation and adjacent to the corporation's offices.

Hospice of Orleans has been providing hospice services since October 1994, and currently provides home-based hospice care and offers inpatient services at nursing homes and through a swing-bed arrangement at Medina Memorial Hospital and Lakeside Memorial Hospital. Hospice of Orleans expects to continue these arrangements after the new facility is built.

Total project costs are estimated at \$2,241,469.

DOH Recommendation
Contingent approval.

Need Summary

Hospice of Orleans has been providing service to the community for the past 15 years. Over the past five years, patient days at Hospice of Orleans has seen a 48% increase from 3,560 in 2005 to 5,281 in 2009. The facility served approximately 15 people per day last year, with an average stay of 20 days.

Program Summary

The state-of-the-art hospice facility will provide both the residents and their visitors with a comfortable and homelike environment where one can be with others or in a private setting.

The hospice's proposal meets the programmatic regulatory requirements for staffing, services, and structural design.

Financial Summary

Project costs will be met with \$1,576,101 in cash, of which \$700,000 will come from investments that Hospice of Orleans has already set aside, and \$876,101 through an ongoing fundraising campaign. The balance of \$665,368 will be financed with a 20-year bank loan at 5.25%.

Incremental Budget:	<i>Revenues:</i>	\$ 790,171
	<i>Expenses:</i>	<u>967,767</u>
	<i>Gain/(Loss):</i>	<u>(\$177,596)</u>

With just the incremental budget shown above, it appears that the applicant has not demonstrated the capability to proceed in a financially feasible manner. However, by factoring in the full operations, the applicant predicts an overall positive net income for both years one and three, with year three net income being approximately \$102,000. With this additional information, the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

The applicant is proposing to construct an 8,300 SF hospice facility, with 8 single-occupancy patient suites. Additional amenities include a community room, a kitchen and dining area, an adjacent courtyard, a private meeting room and exterior porch. A personal services space is provided, including a therapy tub. Another building on the site houses administrative services for the applicant's home-based hospice care services.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

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

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
3. The applicant shall complete construction by September 1, 2011. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

The new facility will be located on land currently owned by the applicant, located at 14080 Route 30 West, Town of Albion. Currently, there are two buildings on the site. These buildings will be converted for use as maintenance facilities and overnight patient family accommodations.

- Hospice of Orleans has seen a 48% increase from 3,560 in 2005 to 5,281 in 2009.
- The Hospice is unique in that it provides the patient with a home-like experience.
- Medina Memorial Hospital and Lakeside Memorial Hospital provide swing-beds for end-of-life care, but they are limited to providing short term symptom management.
- This is the only Hospice center in Orleans County, and weather conditions during winter in New York can be severe, inconveniencing family members who have to travel.
- The facility works with patient families to tailor specific programs that best fits individual patients.
- The choice to use a Hospice is usually a difficult decision for a family because it usually means end of life care.

Conclusion:

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Hospice of Orleans, Inc., currently operates an Article 40 hospice serving the residents of Orleans County. The current proposal seeks approval to construct and operate a freestanding facility to house an 8-bed hospice residence unit, with one of the eight beds dually-certified for both hospice residence level of care and hospice inpatient level of care. Chapter 154 of the Laws of 2004 was enacted to permit the dual certification of hospice residence beds for inpatient care, and the final regulations were adopted in April, 2007. The hospice will construct the facility on the same site as the address noted above, adjacent to the two buildings that currently house its administrative offices.

The proposed one-story facility will consist of 8 single patient suites, each with a full private bathroom with shower, appropriate bedroom furniture, living room furniture, and closet space, and each is large enough to accommodate the patient's family, visitors, and overnight guests using pull-out beds and recliners/loungers. The facility includes a chapel for peaceful meditation and spiritual/religious use, a conference room for private patient and family meetings and/or counseling, and a large glass covered indoor courtyard/sunroom is located in the center of the building for year-round use by patients, families, and guests. In addition, there is a very large combination living room, dining room, and kitchen, with sofas, chairs, and dining tables and chairs, with full kitchen facilities for the use of patients, families and guests to store, prepare, and share food and meals together. At the entrance to the building is a large outdoor front porch for patient and family use. All these common areas are designed to include space for intimate, more private conversation areas as well as for large gatherings. The facility will also consist of a nurses' station centrally located for easy access to each patient suite, and other rooms including a therapy tub room, spa and hair styling room, medication room, staff lounge and offices, linen and housekeeping utility rooms, and lavatories.

Staffing for the facility will utilize 24-hour, 7 days per week, nursing coverage. At a minimum, one RN and two Nurse Aides will provide direct patient care for the eight beds on a twelve-hour day shift, and one RN and two Nurse Aides will provide direct patient care for the eight beds on a twelve-hour night shift. Also available onsite, as needed, will be a physician, clergy / spiritual advisor, social worker/counselor, and volunteers. The hospice's Executive Director will provide oversight responsibilities for the hospice residence, and the RN Supervisor will provide the direct day-to-day administration and clinical supervision of the facility. The dedicated interdisciplinary care team serving the hospice residence will consist of RNs and nurse aides, plus the Medical Director, physician, social worker, spiritual care coordinator, and bereavement coordinator. The hospice will enter into a contract with The Villages of Orleans Health and Rehabilitation Center, an Article 28 skilled nursing facility located 0.5 mile away on the same road, to prepare and

deliver to the hospice residence facility all regulatory required meals and nutrition supplements. Per the proposed contract, all meal and food preparation and delivery will be coordinated and supervised by The Villages of Orleans' registered dietician, in accordance with all physicians' orders for specialized or therapeutic diet requirements. The hospice residence construction plans provide for adequate space for receiving, storing, refrigeration, preparation, and distribution of meals, in addition to clean –up and waste disposal.

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

Recommendation

From a programmatic perspective, approval is recommended.

<h2>Financial Analysis</h2>

Background

Hospice of Orleans has been providing hospice services since October 1994, and currently provides home-based hospice care and offers inpatient services at nursing homes and through a swing bed arrangement at Medina Memorial Hospital and Lakeside Memorial Hospital. Hospice of Orleans expects to continue these arrangements after the new facility is built.

Total Project Cost and Financing

Total project cost for new construction and acquisition of moveable equipment is estimated at \$2,241,469, broken down as follows:

New Construction	\$1,500,000
Renovation & Demolition	50,000
Site Development	150,000
Design Contingency	17,000
Construction Contingency	85,000
Fixed Equipment	40,000
Architect/Engineering Fees	119,300
Construction Manager Fees	102,000
Other Fees	20,000
Moveable Equipment	100,000
Telecommunications	15,000
Interim Interest Expense	34,471
CON Application Fee	2,000
CON Additional Processing Fee	<u>6,698</u>
Total Project Cost	<u>\$2,241,469</u>

Project costs are based on a September 1, 2011 construction start date and a ten month construction period.

The applicant's financing plan is as follows:

Equity – accumulated funds	\$700,000
Equity – fundraising (gifts & pledges as of 5/13/11 = \$915,345)	876,101
Loan (20 years @ 5.25%)	<u>665,368</u>
Total	<u>\$2,221,469</u>

The applicant has provided two letters of interest, one from The Bank of Castile and one from HSBC.

Hospice of Orleans started out in 1994 with a capital campaign that enabled them to establish themselves as a Medicare certified hospice. And each year since that time they have reached out to the community through events and mailings. Since 2005 these efforts have resulted in contributions ranging from \$106,878 to \$316,839 per year. For this capital campaign, Hospice of Orleans has developed a working committee that has extensive experience in

running such a campaign. As noted above, they have already exceeded their equity goal. The capital campaign's ultimate financial goal is \$1,222,500 and it is anticipated the extra funds will be used to offset any unforeseen costs.

Operating Budget

The applicant has submitted first and third years incremental operating budget, in 2011 dollars, as summarized below:

	<u>Year One</u>	<u>Year Three</u>
Total Revenues	\$668,480	\$790,171
Expenses:		
Operating	\$826,613	\$853,423
Capital	<u>116,479</u>	<u>114,344</u>
Total Expenses	\$1,611,572	\$1,757,938
Excess of Revenues over Expenses	<u>(\$274,612)</u>	<u>(\$177,596)</u>
Utilization: (Inpatient Days)	2,336	2,908
Cost Per Day	\$403.72	\$332.79

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

Medicaid	20.0%
Medicare	78.0%
All Other	2.0%

Expense and utilization assumptions are based on the Hospice of Orleans historical experience and from other existing hospice residences. While the incremental budgets show losses in both years one and three, the applicant states that the over all operations are expected to generate a surplus of approximately \$20,000 in the first year and \$102,000 in the third year.

Capability and Feasibility

Total project cost of \$2,241,469, will be funded through; \$700,000 in cash equity, \$876,101 in equity from fundraising, and a \$665,368 loan at the above stated terms. Presented as BFA Attachments A and B is Hospice of Orleans, Inc., certified financial statements for 2008 through 2010, which indicates they have adequate liquid resources to provide the project equity.

Working capital requirements are estimated at \$161,295, which appear reasonable based on two months of third year budgeted expenses. Review of BFA Attachments A and B shows sufficient liquid resources to meet the working capital requirement.

The first and third year's financial projections show incremental operating losses of \$274,612 and \$177,596, respectively. The applicant however projects overall operations will be positive starting during the first year and will remain positive into the third year. Hospice of Orleans will generate \$102,000 in net income. A review of BFA Attachment A and B shows their net income was: \$138,803 in 2008, \$463,662 in 2009, and \$324,937 in 2010. Revenues reflect the current reimbursement methodologies for hospice services. The budget appears to be reasonable.

Review of BFA Attachment A shows Hospice of Orleans had an average positive working capital of \$885,999, which had grown from \$579,353 in 2008 to \$1,121,064 at the end of 2010. They had an average positive net asset position of \$2,240,965, which grew from \$1,823,544 in 2008 to \$2,612,143 by the end of 2010 and their net income averaged \$309,134 during this period.

It appears the applicant has demonstrated the capability to proceed in a financially feasible manner; and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

The applicant is proposing to construct an 8,300 SF hospice facility. Eight single occupancy patient suites are to be provided at 325 SF each, including visitors seating area, toilet/shower room and closets. An 898 SF community room includes a living, kitchen and dining area, and public toilet. Adjacent to the community room is a 622 SF courtyard, a private 177 SF meeting room and exterior porch. Also provided are a 124 SF chapel and a personal services room with an accessible toilet and therapy tub. Clinical support spaces include a 298 SF central nurses station, adjacent med-prep room, housekeeping with laundry, clean and soiled linen closets, and a janitorial closet. Administrative areas include a 207 SF staff lounge with toilet, a nurse managers office at 92 SF, and reception counter. Other spaces include a 242 SF equipment storage room, toilet/shower room for family and guests, and a partial basement housing mechanical equipment and utility storage.

Environmental Review

The Department has deemed this project to be a TYPE I Action and the lead agency shall be the county of Nassau or the authority having jurisdiction.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary for 2008 and 2009, Hospice of Orleans, Inc.
BFA Attachment B	Financial Summary for 2009 and 2010, Hospice of Orleans, Inc.

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Residential Health Care Facilities - Construction

Exhibit #6

	<u>Number</u>	<u>Applicant/Facility</u>
1.	101083 C	Eger Health Care and Rehabilitation Center (Richmond County)
2.	102316 C	Hamilton Park Multicare, LLC d/b/a Hamilton Park Nursing and Rehabilitation Center (Kings County)



Public Health and Health Planning Council

Project # 101083-C
Eger Health Care and Rehabilitation Center

County: Richmond (Staten Island)
Purpose: Construction

Program: Residential Health Care Facility
Submitted: March 29, 2010

Executive Summary

Description

Eger Health Care and Rehabilitation Center (Eger), a 378-bed not-for-profit residential health care facility (RHCF) located at 140 Meisner Avenue, Staten Island, requests approval for the replacement of an existing tower, housing a 240-bed RHCF. There will be an overall reduction of beds from 378 (plus 2 respite beds) to 340 (plus 2 respite beds), with 100 of the remaining beds dedicated to sub-acute, short-term care. The applicant also proposes to renovate and expand the wing built in 1991, where patients receiving sub-acute and rehabilitation care are concentrated, and which will house the 100 beds for sub-acute care.

Total project costs are estimated at \$117,990,788.

DOH Recommendation
Contingent approval.

Need Summary

Many studies have shown that the "Green House" style nursing facility is more appealing and beneficial to residents. This project seeks to be one of the few Green Urban facilities in New York State. Not only will this project provide cost savings for this facility, it is also beneficial to the environment, community, and residents.

<i>RHCF Bed Need</i>	<i>New York City</i>
2016 Projected Need	51,071
Current Beds	43,027
Beds Under Construction	310
Total Resources	43,337
Unmet Need	7,734

Upon approval the Eger's bed complement will be as follows:

<i>Current</i>	<i>Requested</i>	<i>Upon Completion</i>
378	- 38	340

Program Summary

Eger Health Care and Rehabilitation Center is currently in substantial compliance with all applicable codes, rules and regulations. The modernized and expanded facility will improve the living and working environments for residents and staff, while improving compliance with current standards and regulatory requirements.

Financial Summary

Project costs will be met as follows: \$10,000,000 in Land Equity; \$2,600,000 in equity from operations; \$5,141,383 in fundraising and \$100,249,405 via DASNY tax exempt financing.

Budget:	<i>Revenues:</i>	\$ 48,311,366
	<i>Expenses:</i>	<u>48,654,003</u>
	<i>Gain/(Loss):</i>	\$ (342,637)

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

Architectural Summary

The applicant proposes to replace an existing eight-story skilled nursing facility tower with a new six-story, 195,000 SF, replacement facility housing 240 beds. The project also proposes renovation of an existing two-story building and three-story addition to create a 100-bed rehabilitation facility. The existing tower was built and occupied in 1971 and is deficient by today's codes and standards.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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. The 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]
3. Submission of a plan to enhance access to Medicaid residents. At a minimum, the plan shall include, but not necessarily be limited to, ways in which the facility will:
 - a) Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
 - b) Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
 - c) Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy; and
 - d) Submit an annual report for two years to the Department of Health, which demonstrates substantial progress with the implementation of the plan. The plan should include but not be limited to:
 - Information on activities relating to a-c above; and
 - Documentation pertaining to the number of referrals and number of Medicaid admissions; and
 - Other factors as determined by the applicant to be pertinent.

The Department reserves the right to require continued reporting beyond the two year period. [RNR]

4. Programmatic review and approval of the final floor plans. [LTC]
5. Submission of a commitment acceptable to the Department of Health, for a permanent mortgage from a recognized lending institution at a prevailing rate of interest within 120 days of the submission to the Department, Bureau of Architectural and Engineering Facility Planning, of final plans and specifications and before the start of construction. Included with the submitted permanent mortgage commitment must be a sources and uses statement and debt amortization, for both new and refinanced debt. [BFA]
6. Submission of documentation of fundraising to be used as a source financing acceptable to the Department. [BFA]
7. Submission of updated budgets, with all assumptions noted, that include the impact of the State's 2011-2012 Budget and continues to demonstrate financial feasibility, acceptable to the Department. [BFA]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's request for and Department's granting approval for the start of construction. [AER]
3. The applicant shall complete construction by December 1, 2015. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011

Need Analysis

Background

Eger Health Care and Rehabilitation Center (Eger), an existing 378-bed Article 28 RHC located at 140 Meisner Ave. Staten Island, seeks approval to construct a 340-bed replacement facility, for a net reduction of 38 RHC beds. One hundred (100) of the 340 beds will be sub-acute short-term care beds. There will also be two respite beds, in addition to the 340. The new 6-story building will consist of individual "housing units", located on each floor.

Analysis

The new facility will be more patient-friendly, and cost- and energy-efficient in the following ways:

- Person-centered care in a small household model;
- Domestic hot water, green roof, and wind solar electricity;
- Sub-acute and rehabilitation care will be concentrated to a single unit;
- There will be a reduction of 38 RHC beds;
- With the reduction in long term care beds, there will be an increase in inpatient services and a home-like model to promote a healthy living environment;
- Meals will be cooked in each individual housing unit, preventing patient injury during travel to a central cafeteria, in addition to, giving the residents a more home-like feel.
- Special interior design tools will provide residents with a quiet and comfortable environment.

Utilization

Utilization at Eger Health Care and Rehabilitation Center showed a slight decrease going from 98.9% in 2008 to 98.5% in 2009.

<u>RHCF Occupancy</u>	<u>2008</u>	<u>2009</u>
Eger Health Care and Rehabilitation Center	98.9%	98.5%
New York City Average	94.5%	95.0%

At the end of 2009, the facility's Case Mix Index (CMI) was 1.2. Out of 372 residents, there was 1 Physical B.

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 whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

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

Medicaid admissions at Eger Health Care and Rehabilitation Center were well below the 75% county planning average for both 2007 and 2008. The facility reported Medicaid admissions of 12.0% and 11.5% in 2007 and 2008, respectively. The 75% planning averages for Richmond County for these years were 27.3% (2007) and 19.1% (2008).

Conclusion

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Eger Health Care and Rehabilitation Center	Same
<i>Address</i>	140 Meisner Avenue, Staten Island	Same
<i>RHCF Capacity</i>	378 + 2 Respite beds	340 + 2 Respite beds
<i>Type of Operator</i>	Corporate	Same
<i>Class of Operator</i>	Voluntary	Same
<i>Name of Operator</i>	Eger Health Care and Rehabilitation Center	Same

Project Review

- PROGRAM REVIEW:

Eger Health Care and Rehabilitation Center is a 378-bed plus (2) respite beds, Residential Health Care Facility located at 140 Meisner Avenue, Staten Island, Richmond County, New York. The Facility currently provides Skilled Nursing Care, Short Term Rehabilitation, Diagnostic Radiology, Clinical Laboratory Services and Respite Care. The majority of these services are provided in the eight-story Skilled Nursing Facility (Tower) which was built in 1971. A two (2) story addition referred to as the "Extension Building" was built in 1991 and connects to the Tower at two levels. The current Short Term Rehabilitation Program is spread between the Tower and the Extension Building and approximately 80 of the current 378-beds are used for Short Term Rehabilitation and two (2) for Respite.

Eger Healthcare also manages the Harbor House, a 75-bed Adult Home and Social Adult Day Care Program which is located in a single story, "Log Cabin" on the same Campus.

The Applicant (Eger Health Care and Rehabilitation Center) is requesting approval through this CON application to renovate and expand the Extension Building and replace the existing eight-story Skilled Nursing Facility Tower and construct a new six (6) story Skilled Nursing Facility with a 240-bed energy efficient structure, incorporating the latest design features to facilitate person centered care in a small household model. The remaining 100 beds will be dedicated to post-acute short term care and will be located in the renovated and expanded Extension Building.

The intent of this project is to correct problems such as; 86% double rooms, insufficient and noncompliant toilet space, partially sprinklered buildings, nursing units with fifty six (56) residents and inadequate dining, recreational and lounge space. The proposed new Tower and the expansion/renovation to the Extension Building will provide greater resident dignity and independence based upon a higher percentage of single rooms, decentralized Dining and Activity areas, accessibility improvements and easier access to staff formerly located in the Extension Building.

Additionally, Eger, in the future, plans to expand services to include Out-Patient Rehabilitation, Medical Adult Day Health Care, Dialysis, and Respiratory/Ventilator Services. However, these expansions are not included in this CON application.

- PHYSICAL ENVIRONMENT:

The **PROPOSED** renovation and new construction will include the following:

Skilled Nursing Facility (Tower Building)

The new replacement Tower is planned as a six-story structure for the Skilled Nursing Facility and is proposed to the west of the current Tower, on top of a hill in what is currently a wooded lot and overlooking New York Harbor.

Ground Floor

The Ground floor will be partially built into the slope of the hill and will contain the Main Entrance Lobby, Administration, Occupational and Physical Therapy, Staff Support spaces, Kitchen and Receiving.

First – Fifth Floors

The First through the Fifth Floors will be similar, consisting of four (4), 12-bed Households around a central elevator core. Each Household will contain a Country Kitchen, Dining Room and Hearth Room. A separate Den will provide additional Activity space. Each Household will have a Three-Season Porch or Balcony for access to the outdoors. Currently the Households are planned with a mix of single and double rooms, but the possibility of 100% single rooms is being evaluated as a possible option if deemed financially feasible.

Rehabilitation Center (Extension Building)

The new Rehabilitation Center will be a renovation and expansion of the existing two (2)-story Extension Building. A new three-story addition to the Extension Building will be dedicated to Resident Households containing a twelve (12) and thirteen (13) bed unit on each floor. Each Household will contain a Country Kitchen, Dining Room and Lounge space. A separate Den will provide additional Activity space. The rooms in the existing Extension Building will be all single rooms with toilets and showers. The bed configurations in the addition will be roughly 50% singles and 50% doubles.

- COMPLIANCE:

Eger Health Care and Rehabilitation Center is currently in substantial compliance with the applicable codes, rules and regulations.

Project Review – Analysis:

The modernized and expanded facility will improve the resident's and staff's overall living and working environments, while improving compliance with current standards and regulatory requirements.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total project cost, which is for land acquisition, new construction, renovations and the acquisition of moveable equipment, is estimated at \$117,990,788, further broken down as follows:

Land Acquisition	\$10,000,000
New Construction	63,013,166
Renovation & Demolition	4,704,658
Site Development	4,380,409
Design Contingency	3,840,145
Construction Contingency	3,840,145
Fixed Equipment	726,132
Architect/Engineering Fees	5,767,859
Construction Manager Fees	2,883,929
Other Fees (Consultant)	1,478,427
Moveable Equipment	2,101,200
Telecommunications	309,000
Financing Costs	7,600,760
Interim Interest Expense	6,697,570
CON Fee	2,000
Additional Processing Fee	645,388
<i>Total Project Cost</i>	<u>\$117,990,788</u>

Project costs are based on a October 1, 2011 construction start date and a thirty month construction period.

The costs for this project are broken down as follows:

Replacement Facility:	\$110,516,625
Renovation:	7,474,163

Based on the mid point of construction in 2012, the Bureau of Architectural and Engineering Facility Planning has determined that the respective costs are acceptable and within appropriate bed cost caps. The applicant provided an MAI appraisal in support of the recorded land value.

The applicant’s financing plan appears as follows:

Land Equity	\$ 10,000,000
Equity (operations)	\$ 2,600,000
Fundraising	\$ 5,141,383
DASNY tax exempt financing FHA insured (6.5% interest rate for 25 years)	\$100,249,405

The Department of Health has determined that the equity will be reduced to 15% of the total project cost due to the reduction in the certified bed capacity from 378 to 340 and financial hardship.

Operating Budget

The applicant has submitted an operating budget for the whole facility, in 2010 dollars, for the third year after the replacement facility and renovation of the existing facility site. The budget is summarized as follows:

	<u>Per Diem</u>	<u>Total</u>
Revenues:		
Medicaid Fee-For-Service	\$370.61	\$26,144,276
Medicare Fee-For-Service	378.02	14,368,920
Private Pay	497.59	6,983,170
Other Operating Revenues		415,000
Non Operating Revenues		<u>400,000</u>
 Total Revenues		 \$48,311,366
Expenses:		
Operating	\$330.65	\$40,533,751
Capital	<u>66.24</u>	<u>8,120,252</u>
Total Expenses	\$396.89	\$48,654,003
 Excess of Revenues over Expenses		 \$(342,637)
 Utilization: (patient days)		 122,586
Occupancy		98.78%

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

- o The capital component of Medicaid revenues is based on the interest and depreciation reimbursement methodology.
- o Utilization broken down by payor source is as follows:

Medicaid	57.54%
Medicare	31.00%
Private	11.46%

Capability and Feasibility

Project costs will be met with the following: Land Equity of \$10,000,000; Equity from operations from the assets limited to use of \$2,600,000; Fundraising of \$5,141,383 and tax exempt financing \$100,249,405 via the Dormitory Authority of the State of New York at an interest rate of 6.5% for twenty five years.

Working capital requirements are estimated at \$962,000, which is equivalent to two months of incremental third year expenses.

The applicant will provide \$481,000 equity from operations. The remainder, \$481,000, will be provided via fundraising. Presented as BFA Attachment A is the financial summary of Eger Health Care and Rehabilitation Center, which indicates the availability of sufficient funds to meet the equity portion. The applicant has just commenced its fundraising activities. As a contingency of approval, the applicant must submit documentation of receipt of fundraising proceeds.

The submitted budget indicates an excess of expenses over revenues of \$342,637 during the third year. Revenues are based on current reimbursement methodologies plus incremental capital reimbursement for Medicaid. The applicant has indicated that the incremental Medicare utilization percentage is the result of 100 beds dedicated to short term medically complex and rehabilitative care patients. The applicant has indicated that patients who are admitted for these short rehabilitative stays are typically covered by Medicare, and therefore there is a significant decline anticipated in the facility's Medicaid and Private Pay utilization. This project is imperative to the facility in that a modern facility will enable the facility to remain competitive with other nursing homes in the geographical area. Also, with this application, the facility is reducing its certified bed capacity.

As shown on BFA Attachment A, the facility had an average positive working capital position and an average positive net asset position. The applicant incurred an average excess of operating expenses over revenues of \$552,319 from 2007 through 2009. The applicant has indicated that the reason for the losses were the following: retroactive workers compensation claims in 2007 and 2008, and historical high expenses associated with employee benefits associated with high workman costs and obligated benefits with the SIEU 1199 labor contract, of which employee benefits were 42.89% of salaries and wages in 2009. The applicant has implemented the following steps to improve operations: reduced utility costs associated with modernized heating and air conditioning; decreased labor costs, including both direct and indirect resident care functions, and implemented an electronic health records system, and going completely paperless.

Presented as BFA Attachment B is the October 31, 2010 internal financial statements of Eger Health Care and Rehabilitation Center. As shown on BFA Attachment B, the facility had a positive working capital position and a positive net asset position through October 31, 2010. Also, the facility incurred an operating loss of \$989,884 through October 31, 2010.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Review Summary

- Skilled Nursing Facility (SNF): (194,640 SF new construction)

The replacement Skilled Nursing Facility will be a 240-bed, plus 2 Respite beds, energy efficient structure incorporating the latest design features to facilitate resident centered care in a small household model. It is planned as a 194,640 SF six-story structure. Demolition or re-purposing the existing Skilled Nursing Tower is still being analyzed. Future plans for the Tower are not included in this CON.

- Ground Floor SNF (36,240 SF new construction)

The ground floor will consist of one (1) resident household unit, containing twelve-beds, connected to a central elevator core. This household unit has six (6) single-bedded rooms and three (3) double-bedded rooms, with a separate toilet and shower room. This household unit also contains a country kitchen, dining and living area, den with patio, an office, bath/spa, and storage. Also included on the ground floor are the lobby, administration, receiving, central stores, hair and grooming, kitchen, OT/PT, and employees' facilities.

- First Floor SNF (33,217 SF new construction)

The first floor will consist of four (4) resident household units, with each unit containing twelve-beds per household for a total of 48 beds on this floor, around a central elevator core. Each household unit has six (6) single-bedded rooms and three (3) double-bedded rooms, with a separate toilet and shower room. Each household unit also contains a country kitchen, dining and living area, den with balcony, an office, bath/spa, and storage.

- Second Floor SNF (33,217 SF new construction)

The second floor is identical to the first floor layout, which will contain 48 beds.

- Third Floor SNF (33,217 SF new construction)

The third floor is identical to the first floor layout, which will contain 48 beds.

- Fourth Floor SNF (33,217 SF new construction)

The fourth floor is identical to the first floor layout, which will contain 48 beds.

- Fifth Floor SNF (25,532 SF new construction)

The fifth floor contains three (3) resident household units, around a central elevator core, containing twelve-beds per household for a total of 36 beds on this floor. Each household unit has six (6) single-bedded rooms and three (3) double-bedded rooms, with a separate toilet and shower room. Each household unit also contains a country kitchen, dining and living area, den with balcony, an office, bath/spa, and storage.

- Rehabilitation Center (Rehab): (52,285 new construction / 29,086 renovation)

The new Rehabilitation Center will be a renovation and expansion of the existing Extension Building. A new three-story, 52,285 SF, addition will be dedicated to resident household units, along with a new elevator core to service the entire building. The existing two-story Extension Building currently contains administration on the first floor and a 42-bed nursing unit on the second floor. This existing 29,086 SF building will be fully renovated.

- First Floor Rehab (17,416 SF new construction / 14,543 renovation)

The first floor addition contains two (2) resident household units around a central elevator core. One unit contains twelve-beds (six (6) single-bedded rooms and three (3) double-bedded rooms) with the other unit containing thirteen-beds (seven (7) single-bedded rooms and three (3) double-bedded rooms) for a total of 25 beds on this floor. Each room has a separate toilet and shower room. Each household unit contains a separate den and bath/spa room. The two units will share a country kitchen, dining and living area, along with sitting area, nurse station, office, and treatment room. The first floor renovation will include a new main lobby, administration suite, and OT/PT areas, along with a gymnasium dedicated to rehabilitation.

- Second Floor Rehab (17,416 SF new construction / 14,543 renovation)

The second floor addition contains two (2) resident household units around a central elevator core identical to the first floor addition, containing 25 beds. The second floor renovation will include a twenty-five bed household unit. This unit will contain all single-bedded rooms with each bed room having a separate toilet and shower room. Also including in this unit are a nurse station, 2 lounges, a country kitchen, dining and living area, and a bath/spa room.

- Third Floor Rehab (17,416 SF new construction)

The third floor addition contains two (2) resident household units around a central elevator core identical to the first floor addition, containing 25 beds.

Environmental Review

The Department has deemed this project to be a TYPE I Action and the lead agency shall be the county of Richmond or the authority having jurisdiction.

Recommendation

From an architectural perspective, approval is recommended.

<h2>Attachments</h2>

- | | |
|------------------|--|
| BFA Attachment A | Financial Summary- Eger Health Care and Rehabilitation Center |
| BFA Attachment B | October 31, 2010 internal financial statements of Eger Health Care and Rehabilitation Center |
| BHFP Attachment | Map |



Public Health and Health Planning Council

Project # 102316-C

Hamilton Park Multicare, LLC
d/b/a Hamilton Park Nursing and Rehabilitation Center

County: Kings (Brooklyn)
Purpose: Construction

Program: Residential Health Care Facility
Submitted: October 22, 2010

Executive Summary

Description

Hamilton Park Multicare, LLC, d/b/a Hamilton Park Nursing and Rehabilitation Center (Hamilton Park), a 150-bed proprietary residential health care facility (RHCF) located at 699 92nd Street, Brooklyn, requests approval to add 50 new RHCF beds to the vacant floor of the Center. This addition will increase the number of residential health care beds from 150 to 200.

The new beds will be added to space that was previously used by Victory Memorial Hospital as an intensive care unit (ICU). The project will require renovations to the former ICU to reconfigure the space to serve the nursing home population. Hamilton Park commenced operations on September 1, 2009, via CON #082006-E. The members of Hamilton Park are: Chaim Sieger (60%), Solomon Rubin (20%), and Moishe Heller (20%).

Total project costs are estimated at \$5,817,309.

DOH Recommendation
Contingent approval.

Need Summary

The RHCF bed need methodology set forth in 10 NYCRR Section 709.3 shows the following for the five-borough New York City planning area:

<i>RHCF Bed Need- NYC</i>	
2016 Projected Need	51,071
Current Beds	43,454
Beds Under Construction	635
Total Resources	44,089
Unmet Need	6,982

Although RHCF occupancy in New York City and in Kings County is below the optimum 97 percent, the consideration of local factors in the area served by Hamilton Park supports the addition of the requested 50 beds. These factors include occupancy levels of 97 percent or higher in neighboring facilities, a higher proportion of individuals over 65 than elsewhere in the borough, and poor health status indicators in the adult population.

Program Summary

While the proposed floor plan is an improvement over the conditions of the other existing skilled nursing floors, there are a number of unresolved issues with respect to the floor plans that do not allow for a full approval at this time. Therefore a contingent approval is recommended based on submission and satisfactory review of final floor plans.

Financial Summary

Project costs will be met via equity of \$2,300,000 from the members of Hamilton Park Multicare, LLC, and a loan of \$3,517,309 (10 yrs. @ 7.5%).

Incremental Budget:	Revenues:	\$ 5,828,000
	Expenses:	<u>5,237,000</u>
	Net Income:	\$ 591,000

Subject to the noted contingencies, it appears the applicant has demonstrated capability to proceed in a financially feasible manner. Approval is recommended.

Architectural Summary

The Hamilton Park Multicare Center proposes to convert a decertified 44-bed ICU, previously used by Victory Memorial Hospital, to a 50-bed skilled nursing unit at the existing Hamilton Park Nursing and Rehabilitation Center.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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. The 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]
 3. Submission of a plan to enhance access to Medicaid residents. At a minimum, the plan shall include, but not necessarily limited to, ways in which the facility will:
 - a) Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
 - b) Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
 - c) Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy; and
 - d) Submit an annual report for two years to the Department of Health, which demonstrates substantial progress with the implement of the plan. The plan should include but not be limited to:
 - Information on activities relating to a-c above; and
 - Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
 - Other factors as determined by the applicant to be pertinent.
- The Department reserves the right to require continued reporting beyond the two year period. [RNR]
4. Submission and satisfactory approval of final floor plans. [LTC]
 5. Submission of updated budgets, with all assumptions noted, that include the impact of the State's 2011-2012 Budget and continues to demonstrate financial feasibility, acceptable to the Department. [BFA]
 6. Submission of an executed amended lease that is acceptable to the Department. [BFA]
 7. Submission of a loan commitment that is acceptable to the Department. [BFA]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
3. The applicant shall complete construction by February 1, 2014. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

Hamilton Park Nursing and Rehabilitation Center (Hamilton Park), a 150 bed Residential Health Care Facility (RHCF), located at 699 92nd Street Brooklyn, New York 11228, in Kings County, seeks approval to add 50 RHCF beds and complete renovations that coincide with the bed additions.

Occupancy

Hamilton Park has consistently experienced a high rate of occupancy for its 150 beds:

<u>RHCF Occupancy</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Hamilton Park Nursing and Rehabilitation	99.2%	99.5%	98.0%
Kings County	92.0%	92.2%	96.0%

Upon approval of the 50 additional beds requested by Hamilton Park NRC, the facility's bed complement would be as follows:

<u>Certified Beds</u>	<u>Current</u>	<u>Requested Change</u>	<u>Upon Completion</u>
Hamilton Park	150	+50	200

Local Factors

Although application of the section 709.3 RHCF bed need methodology to the five boroughs indicates a need for additional RHCF beds in the New York City planning area, section 709.3 also states that there shall be a presumption of no need if the overall occupancy of existing RHCF's in the planning area is below 97 percent. This is the case for New York City as a whole and for Kings County, where Hamilton Park NRC is located. However, section 709.3 also provides that the presumption of no need based on overall occupancy of less than 97 percent may be rebutted by consideration of local factors that include but are not limited to:

- (1) the impact of requirements pertaining to placing persons with disabilities into the most integrated setting appropriate so as to enable persons with disabilities to interact with non-disabled persons to the fullest extent possible;
- (2) the growth, availability and cost-effectiveness of long-term home and community-based services, other non-institutional residential programs and of other programs and services that may serve as a substitute for or prevent the need for residential health care facility placement;
- (3) occupancy rates, and the trend of those rates of existing residential health care facilities in the planning area and in contiguous counties;
- (4) patient migration patterns that vary from those included in the methodology set forth in subdivision (d) of this section;
- (5) the health status of residents of the planning area or the state, as applicable;
- (6) recommendations made by the local health systems agency, if applicable;
- (7) documented evidence of the unduplicated number of patients on waiting lists who are appropriate for and desire admission to a residential health care facility who experience a long waiting time for placement and who cannot be served adequately in other settings.

Local features of Kings County and the area to be served by Hamilton Park NRC that bear consideration are:

- Kings County has an above average population growth rate of 4.1% compared to the 3% state average.

- Kings County has an above average number of people living below the poverty level--21.1%, compared to the state average of 13.7%.
- Individuals aged 65 and over comprise 18 percent of the population in Southwest Brooklyn, Hamilton Park's main service area, compared to 11 percent in Brooklyn overall and 12 percent in the five boroughs of New York City.
- In Southwest Brooklyn, 7 percent of adults have diabetes, and the death rate due to heart disease is higher than in New York City overall.
- Hamilton Park NRC, (formerly Victory Memorial SNF) had a 2010 Medicaid utilization rate of 79.2 percent. The facility plans on continuing to support underserved residents.
- Occupancy rates at Hamilton Park NRC were 99.2% in 2007, 99.5% in 2008, and 98.0% in 2009. The decrease between 2008 and 2009 is attributed to natural attrition and the closure of Victory Memorial Hospital, which was a source of referrals. The facility's current occupancy is 98.2% and is expected to exceed 99.9% by the end of 2011.
- With the exception of one facility in bankruptcy, other nursing homes in the southwest area of Brooklyn served by Hamilton Park NRC show occupancy rates of 97 percent or higher.

The Department also finds worthy of consideration the fact that Hamilton Park NRC is located in an area at the southwestern edge of the borough, in proximity to the ocean. This geographical circumstance precludes the presence of alternative facilities in a large portion of a radius around Hamilton Park NRC within which it would be reasonable for residents of the area to seek other providers. (This may account in part for Hamilton Park NRC's persistently high occupancy, even after the closure of Victory Memorial and the loss of referrals from that hospital.)

Medicaid Admissions

Regulation 670.3 indicates that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for Kings County. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

Hamilton Park NRC Medicaid admissions as a percentage of total admissions:

2008 – 20.5%
 2009 – 4.2 %

Kings County Medicaid admissions as 75% of the annual percentage of total Medicaid admissions for the county:

2008 – 29.4%
 2009 – 15.0%

Hamilton Park NRC did not attain the Medicaid Access Standard for either year in question.

Conclusion:

The persistently high occupancy rates at Hamilton Park NRC suggest that the facility is a vital resource in its area of Brooklyn, and thus is likely to experience high occupancy in the requested 50 additional beds. This is especially true in view of the planned up-to-date features of the space to be occupied by the 50 new beds, including larger rooms and a community-like layout conducive to resident interaction and socialization.

The occupancy rates of 97 percent and higher at the other RHCF's in the southwest section of Brooklyn served by Hamilton Park NRC also suggest a need for additional beds in that area, particularly since the geographic factor of ocean proximity restricts the number of RHCF facilities that might otherwise be available to area residents.

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Hamilton Park Nursing and Rehabilitation Center	Same
<i>Address</i>	691 92 nd Street Brooklyn, NY 11228 (Kings County)	Same
<i>RHCF Capacity</i>	150	200
<i>Type of Operator</i>	Proprietary	Proprietary
<i>Class of Operator</i>	LLC	LLC
<i>Operator</i>	Hamilton Park Multicare, LLC	Same

Program Review

Hamilton Park Multicare, LLC, doing business as Hamilton Park Nursing and Rehabilitation Center (“The Center”) is proposing to add 50 new residential health care beds to the vacant third floor of the Center, located at 691 92nd Street in Brooklyn, New York 11228. This addition will increase the number of residential health care beds at the Center from 150 to 200. The proposed new beds will occupy space that was previously used by Victory Memorial Hospital as an Intensive Care Unit (ICU) and will be reconfigured to serve the nursing home population. The existing Hamilton Park Nursing and Rehabilitation Center occupies floors four, five and six of one wing of the existing building. At the project’s completion, the nursing home will occupy floors 3, 4, 5 and 6 of this wing. No changes in program have been proposed for the residents of the nursing facility.

Physical Environment

The applicant proposes to fully demolish and rebuild the existing third floor. This third floor wing of the existing building which was previously used as a 44-bed intensive care unit will now become a skilled nursing floor containing 50 beds. The existing 3 floors above this newly proposed unit each contain 50 beds also for a total of 150 skilled nursing home beds. When completed, the facility will have a bed complement of 200 on 4 contiguous floors, 3 through 6.

The existing skilled nursing floors (4-6) are configured in a traditional “medical model” type layout with a center core of utilities and services and double circulation corridors. Each floor has a single large dining room for all residents and limited lounge space for seating. The newly proposed third floor design creates two communities of twenty-five residents each with separate dining and lounge areas; however the corridor still appears to be more of a linear design than we are seeing in more progressive designs that have been submitted. It is also not clear how these communities would interact as there does not seem to be a clear delineation between the two 25-bed communities. This floor is designed to operate as one unit with one centrally located nurses station and as such should be limited to a maximum of 40 beds per 713-3 of the State Hospital Code.

The newly proposed resident unit will contain six (6) single bedded rooms (one of which is the infection control room) and twenty-two (22) double bedded rooms which will be configured as a mixture of “toe to toe”(2) and side by side(20) beds. A centrally located nurses station will be proximate to the staff lounge and staff toilet along with two soiled holding rooms and a single large clean holding and linen cart alcove. Dispersed throughout the floor will be seating areas, multiple lounges and wheelchair/stretchers storage. The floor will also contain five bathing rooms including one tub room and three (3) showers plus a shower in the infection control room. Resident dining areas are provided with their own toilet facilities in each of the 25 bedded communities. Two resident elevators and two service elevators provide service to this floor.

Conclusion

While the proposed floor plan is an improvement over the conditions of the other existing skilled nursing floors, there are a number of unresolved issues with respect to the floor plans that do not allow for a full approval at this time.

Therefore a contingent approval is recommended based on submission and satisfactory review of final floor plans to satisfy the following issues:

1. The proposed plan for the third floor appears to be more of a linear institutional design than progressive and does not lend itself well to two (2) separate communities of residents. The unit design as proposed is a traditional linear double-loaded corridor and is limited to a maximum of 40 beds. The applicant has not demonstrated sufficient justification to exceed a 40-bed skilled nursing unit.
2. The double rooms are rectangular with no privacy enhancements such as a dividing wall and lack equal access for viewing through the window as more progressive designs submitted have shown.
3. Although the Facility proposes a two community concept there is only one nurses' station provided in the center of the floor instead of providing nurses stations in each of the communities.

Recommendation

From a program perspective, contingent approval is recommended.

Financial Analysis

Lease Agreement

The applicant has submitted the current lease agreement, which will be amended as part of this application. The applicant provided a draft amended lease agreement, which is summarized as follows:

Premises: 699 92nd Street, Brooklyn, New York
Lessor: Sunset LG Realty, LLC
Lessee: Hamilton Park Multicare, LLC
Term: Expires April 21, 2039
Rental: \$1,600,000 annually. The lease rental is currently \$1,200,000 but will be amended to \$1,600,000.
Provisions: The lessee shall be responsible for taxes, insurance, maintenance and utilities.

Total Project Cost and Financing

Total project cost for renovations and the acquisition of moveable equipment is estimated at \$5,817,309, itemized as follows:

Renovation and Demolition	\$4,080,000
Temporary Utilities	25,500
Asbestos Abatement or Removal	51,000
Design Contingency	408,000
Construction Contingency	408,000
Planning Consultant Fees	25,500
Architect/Engineering Fees	326,400
Construction Manager Fees	178,500
Other Fees (Consultant)	30,600
Moveable Equipment	250,000
CON Fee	2,000
Additional Processing Fee	<u>31,809</u>
Total Project Cost	\$5,817,309

Project costs are based on a September 1, 2011 construction start date and an eight month construction period. Based on a mid point of construction in 2011, the Bureau of Architectural and Engineering Facility Planning has determined that the respective costs are acceptable and within appropriate bed cost caps.

The applicant's financing plan appears as follows:

Equity (members)	\$2,300,000
Loan via Liebel Rubin (7.5% interest rate for a ten year term)	3,517,309

Operating Budget

The applicant has submitted the following incremental operating budget, in 2011 dollars, for the third year after the completion of the additional 50 beds:

	<u>Per Diem</u>	<u>Total</u>
Revenues:		
Medicaid	\$309.02	\$4,178,000
Medicare	464.78	1,069,000
Private Pay	341.76	<u>581,000</u>
Total Revenues		\$5,828,000
Expenses:		
Operating	\$284.36	\$4,982,000
Capital	<u>19.14</u>	<u>335,472</u>
Total Expenses	\$303.50	\$5,317,472
Net Income		\$510,528
Utilization: (patient days)		17,450
Occupancy		95.62%

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

- Medicaid revenues are based on the existing rate plus incremental capital reimbursement, interest and amortization.
- Medicare and Private Pay revenues are based on current payment rates.
- Utilization for the 50 beds during the third year is as follows:

Medicaid	77.16%
Medicare	13.12%
Private Pay	9.72%

Capability and Feasibility

The total project cost of \$5,817,309 will be met via equity from the members' personal resources of \$2,300,000, and a loan of \$3,517,309 from Liebel Rubin at an interest rate of 7.5% for a ten year term.

Presented as BFA Attachment A, are the personal net worth statements for the members of Hamilton Park Multicare Center, LLC, and Liebel Rubin, which indicates the availability of sufficient funds for the equity contribution and the ability to lend the funds for the project cost. The applicant has submitted an affidavit indicating that equity contributions will be disproportionate to ownership interests.

The submitted budget indicates a net income of \$510,528 during the third year. Revenues are based on current reimbursement methodologies. The applicant has indicated that there is an increase in Medicare and Private Pay utilization for the 50 beds because of the new floor attracting more Medicare and Private Pay patients.

Presented as BFA Attachment B, is a financial summary of Hamilton Park Nursing and Rehabilitation Center from September 1, 2009 to December 31, 2009. As shown on Attachment B, the facility had a negative working capital position and a negative net asset position. Also, the facility incurred a net loss of \$423,383. The applicant has indicated that the loss is the result of the Medicaid rate and does not include reimbursement for real estate taxes.

Presented as BFA Attachment C, are the December 31, 2010 internal financial statements of Hamilton Park Nursing and Rehabilitation Center. As shown on Attachment C, the facility had a negative working capital position and a

positive net asset position through December 31, 2010. As shown on Attachment C, the facility achieved a net income of \$972,420 through December 31, 2010.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective,contingent approval is recommended.

Architectural Analysis

Background

The existing Hamilton Park Multicare Center occupies floors four, five and six of the existing building. The project proposes to renovate the third floor and at project completion, the skilled nursing program will occupy the third, fourth, fifth and sixth floors, each with 50 beds.

The proposed renovation of approximately 20,000 SF will create two communities of twenty-five residents, each with their own dining and lounge areas, which will promote socialization and interaction between the residents.

The new skilled nursing unit will contain 6 single bedded rooms and 22 double bedded rooms with a combination of toe to toe and side by side double bedded room layouts. The unit will include a central nurses station, staff lounge and staff toilet. Centrally located will be two soiled holding rooms, a single large clean holding area and a linen cart alcove. Also included will be seating areas, multiple lounges and a wheelchair/stretchers storage area. The floor will contain a total of 5 bathing rooms including one tub room and four showers, with one of the showers located within the infection control room. All resident dining and lounge spaces will contain their own toilet facilities. Every resident toilet will be ADA compliant.

This project will provide an additional modern and fully code compliant 50-bed nursing home unit in Kings County, New York which is currently underserved and contains an aging population.

Environmental Review:

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement
BFA Attachment B	Financial Summary- Hamilton Park Multicare from September 1, 2009 - December 31, 2009.
BFA Attachment C	Hamilton Park Multicare for Year 2010

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Transitional Care Units - Construction

Exhibit #7

1. 102365 T Erie County Medical Center
(Erie County)
2. 102366 T South Nassau Communities Hospital
(Nassau County)
3. 102367 T St. Francis Hospital
(Nassau County)
4. 102370 T Good Samaritan Hospital of Suffern
(Rockland County)
5. 102371 T Brookhaven Memorial Hospital Medical Center, Inc.
(Suffolk County)
6. 102372 T Glens Falls Hospital
(Warren County)
7. 102373 T Northern Westchester Hospital
(Westchester County)
8. 102374 T White Plains Hospital Center
(Westchester County)



Public Health and Health Planning Council

Project # 102365-T
Erie County Medical Center

County: Erie (Buffalo)

Program: Transitional Care Unit

Purpose: Demonstration – Construction

Submitted: November 18, 2010

Executive Summary

Description

Erie County Medical Center, a 136-bed publicly-owned hospital, located in Erie County, requests approval for the certification of a 22-bed transitional care unit (TCU) to bridge the gap between the hospital's acute-care setting and post-acute care to ensure a smooth transition for care continuum. On September 1, 2010, the Department of Health requested applications in accordance with the provisions of Section 2802-a, of the Public Health Law for a TCU Demonstration Program.

The TCU will be designed to achieve the following objectives:

- Improve clinical outcomes for medically complex patients by providing 24-hour skilled nursing and rehabilitative care prior to long-term care or discharge home;
- Assist patients to fully recover before discharge;
- Reduce overall patient length of stay;
- Prevent re-admissions, and
- Educate and prepare family members to care for these patients at home.

The TCU program will provide access to rehabilitative therapies, which in turn will reduce the Hospital's overall medical/surgical length of stay per TCU eligible patient.

Total project costs are estimated at \$952,656.

DOH Recommendation
Contingent approval.

Need Summary

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010, authorizing the Commissioner

to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis.

Program Summary

The principal elements of the proposed TCU program are:

- A 22-bed unit to provide services to medically complex patients in need of services not generally provided in the community and those awaiting placement in an acute rehabilitation facility.
- Location in a hospital serving as the regional trauma center and providing burn care and acute rehabilitation services; all of which contribute to an above average length of stay.
- Operation by a facility with dedicated staff with access to specialist acute care professionals.
- Single-bedded and double bedded rooms with dining/activities/lounge space in a recently renovated wing of an acute care floor. Therapy space is located in the adjoining central core area.

Financial Summary

Project costs will be met from accumulated funds.

Incremental Budget:	<i>Revenues:</i>	\$ 2,628,000
	<i>Expenses:</i>	<u>1,045,237</u>
	<i>Gain/(Loss):</i>	\$ 1,582,763

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

Architectural Summary

This project involves the renovation of 6,500 SF of the seventh floor of the Medical Center (Zone 4), for a 22-bed transitional care unit.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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]

Council Action Date

June 16, 2011.

Need Analysis

Background

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010 authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis. The original TCU enabling legislation of 2005 authorized five demonstration projects.

Transitional Care Unit Purpose

Section 2802-a of PHL defines "transitional care" as sub-acute care services provided to inpatients of a general hospital who no longer require acute care inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet ready for discharge. TCUs should be limited in length of stay and designed to meet and resolve patients' specific sub-acute medical care needs. Discharges from these units are to be timely and appropriate.

The improvement of quality outcomes for the TCU population through the provision of appropriate services, delivered in the most efficient manner, is the primary goal of the TCU demonstration program. Hospitals selected for this program are required to demonstrate an overall decrease in length of stay, quantify the clinical benefits of the program for TCU patients, and illustrate a synergistic relationship with long term care providers in the community. Collaboration between hospitals and nursing homes in local service areas will help bring about more efficient allocation of patients between the two settings.

In accordance with Section 2802-a of PHL, all providers applying to participate in this demonstration program must meet all Conditions of Participation (CoP) for skilled nursing facilities (SNFs) as defined under Title XVIII of the Federal Social Security Act (Medicare). In order to qualify for Medicare certification, providers must comply with Part 415 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR). In this demonstration, providers not currently licensed to operate nursing home beds will not be required to obtain Public Health and Health Planning Council establishment approval. Additionally, TCU units are not recognized as RHCf beds as defined in 10 NYCRR Section 709.3.

As part of this demonstration program, specific State SNF regulations that may impede the development of TCUs or their ability to provide appropriate services to patients may be subject to waiver, at the discretion of the Department. Such issues will be reviewed on an individual basis.

Applicants must demonstrate the need for any services proposed within the TCU and emphasize the benefits of such a program to a specific community, including, but not limited to, addressing the absence of sufficient post-discharge services in nursing homes and community-based care.

Transitional care units should be limited in length of stay and designed to meet and resolve specific sub-acute medical care needs. The average length of stay for patients served in a TCU ranges from 5 to 21 days, following a qualifying acute care stay. TCU services will be reimbursed at the applicable Medicare per diem SNF rate.

Transitional Care Unit Criteria and Requirements

Section 2802-a requires all providers applying to participate in this demonstration program to meet all applicable requirements as defined under Title XVIII of the Federal Social Security Act (Medicare). Additionally, Transitional Care Units must:

- Have a length of stay of not less than 5 days and not in excess of 21 days;
- Have a pre-opening survey, separate Medicare Number, and SNF certification;
- Be staffed by qualified staff dedicated to the TCU;
- Serve patients who will benefit from active rehabilitation. (It is expected that patients will actively participate in three hours or more of Occupational Therapy/Physical Therapy/Speech Therapy, every day, either three hours consecutively or in combination between rehabilitative sessions); and

- Collect information and submit reports to the Department on an annual basis to demonstrate an overall decrease in length of stay; quantify the clinical benefits of the program for TCU residents and illustrate a synergistic relationship with long term care providers.

Applications must address the configuration of the Transitional Care Unit. However, the applicant must adhere to the following requirements:

- Beds must be located at one geographic location; and
- Beds must be located contiguously within a distinct unit/space within the hospital.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The TCU will focus on patients that if not discharged to the TCU would otherwise, continue to be served in a Med/Surg bed. These patients will remain in the TCU for a short stay of not less than 5 and no more than 21 days.

The TCU will focus on medically complex elderly patients; who while clinically stable still require on-going physician oversight and the specialized services of hospital staff. Other patients expected to be routinely admitted include those who may need an additional few days of rehabilitation prior to discharge to home as well as those needing more extensive rehabilitation therapy prior to discharge to an Acute Rehabilitation Facility. In addition, the TCU is expected to fill the void that will be created with the phase out of sub-acute services in the affiliated RHCF.

The TCU will be under the direct responsibility of the Hospital CEO and will include a senior team consisting of a Licensed Nursing Home Administrator who will be employed part-time as the TCU Administrator, a Nurse Manager with hospital experience, and a part-time Physician Medical Director. The team will also include an MDS Coordinator, Registered Nurses; Certified Nurse Aides, a Social Worker, and Activities and Therapy staff. An interdisciplinary care team will be responsible for the coordination and continuity of patient care.

The applicant is a co-participant with Kaleida Health System in the recently formed Great Lakes Health System and proposes to involve local home care agencies and RHCF in the program through participation in the interdisciplinary care team.

The applicant will submit an annual progress report on TCU operations to the Department of Health.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total project cost, which is for renovations and the acquisition of moveable equipment, is estimated at \$952,656, further itemized as follows:

Renovation and Demolition	\$470,430
Asbestos Abatement or Removal	10,000
Design Contingency	48,043
Construction Contingency	48,043
Planning Consultant Fees	15,000
Architect/Engineering Fees	53,702

Construction Manager Fees	20,178
Other Fees (Consultant)	10,000
Moveable Equipment	260,060
Telecommunications	10,000
CON Fee	2,000
Additional Processing Fee	<u>5,200</u>
Total Project Cost	\$952,656

Project costs are based on a October 1, 2011, construction start date and a seven month construction period. The hospital will provide equity from accumulated funds to meet the total project cost.

Operating Budget

The applicant has submitted an incremental operating budget, in 2011 dollars, for the first and third years, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:		
Medicare-Fee-For-Service	\$1,260,000	\$2,340,000
Medicare Managed Care	108,000	180,000
Commercial Managed Care	<u>0</u>	<u>108,000</u>
Total Revenues	\$1,368,000	\$2,628,000
Expenses:		
Operating	\$702,451	\$935,429
Capital	<u>109,808</u>	<u>109,808</u>
Total Expenses	\$812,259	\$1,045,237
Excess of Revenues over Expenses	\$555,741	\$1,582,763
Cost Per Diem	\$213.75	\$143.18
Revenues Per Diem	\$360.00	\$360.00
Utilization: (patient days)	3,800	7,300
Occupancy	47.32%	90.90%

Presented as BFA Attachment C, is a summary of the budget.

Utilization by payor source during the first and third year is itemized as follows:

	<u>Year One</u>	<u>Year Three</u>
Medicare Fee-For-Service	92.10%	89.04%
Medicare Managed Care	7.90%	6.86%
Commercial Managed Care	0%	4.10%

Expense and utilization assumptions are based on the historical experience of Erie County Medical Center.

Capability and Feasibility

Project costs will be satisfied by accumulated funds from Erie County Medical Center. Presented as BFA Attachment A, is the financial summary of Erie County Medical Center, which indicates the availability of sufficient funds.

The submitted incremental budget indicates an excess of revenues over expenses of \$555,741, and \$1,582,763 during the first and third years, respectively. The Medicare and Commercial revenues were based on a blend of 53 DRGs associated with Erie County Medical Center's medically complex patients and excess days these patients spent in the Hospital. The budget appears reasonable.

As shown on Attachment A, the facility maintained an average positive working capital position and an average positive net asset position during the period shown. Also, the facility had an average operating excess of revenues over expenses of \$1,114,333 from 2007 through 2009. The facility incurred a loss of \$21,695,000 in 2009, due to the

result of a one time expense of recognizing employee benefit expenses associated with the assumption of retiree health insurance obligations from the County of Erie for Erie County Medical Center's employees hired prior to January 1, 2004.

Presented as BFA Attachment B, is the December 31, 2010 internal financial statements of Erie County Medical Center. As shown, the facility had an average positive working capital position and an average positive net asset position during the period shown. As shown, the facility achieved an excess of revenues over expenses of \$1,528,000 during the year 2010.

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

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

This project will consist of 6,500 SF of renovation of the seventh floor of the Medical Center and will include 22 transitional care beds, 8 private patient beds and 14 semi-private patient beds. Several toilet rooms will be renovated to provide appropriate space for patients who need assisted toileting and/or use of patient lifts. Also included are a patient lounge, shower room, nurse station, medication room, nourishment area, clean holding/equipment storage room, soiled utility room and a staff toilet room.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary- 2008 and 2009 certified financial statements of Erie County Medical Center.
BFA Attachment B	Financial Summary- December 31, 2010 internal financial statements of Erie County Medical Center
BFA Attachment C	Summary of Detailed Budget



Public Health and Health Planning Council

Project # 102366-T South Nassau Communities Hospital

County: Nassau (Oceanside)
Purpose: Demonstration

Program: Transitional Care Unit
Submitted: November 18, 2010

Executive Summary

Description

South Nassau Communities Hospital (SNCH), a 435 bed not-for-profit hospital located in Oceanside, requests approval to create a 20-bed Transitional Care Unit (TCU) designed to meet the needs of seriously ill, but medically stable patients who still require continuous skilled nursing care, rehabilitative and/or technological treatment and support. On September 1, 2010, the Department of Health requested applications in accordance with the provisions of Section 2802-a of the Public Health Law for a TCU Demonstration Program.

The TCU will operate as a distinct unit within the Hospital and will be located in renovated space on the first floor of the main hospital building. The major goals of the TCU program are to improve the continuum of care between acute and long-term care levels of services for TCU patients by providing appropriate services in a most efficient manner, and the creation of a capability for nursing homes to serve those patients who are otherwise unable to be served outside of a hospital. SNCH will implement the following strategies to monitor goals and objectives of the demonstration program:

- Each patient will undergo a thorough on-site pre-screening process to evaluate appropriateness for TCU placement; a detailed treatment plan with specific goals will be developed by an interdisciplinary team in collaboration with the patient and family;
- The implementation of a performance improvement plan (PIP) to measure, assess and improve the processes related to TCU activities. Some of the PIP indicators will focus on high risk areas like pressure ulcers, falls, nosocomial infections and other safety related issues;
- Monitor readmissions of patients to the Hospital from the nursing home or community or from the TCU to the Hospital; and

- Compare the acute care length of stay and discharge destination of patients admitted to the TCU, with a historical three-year look back to similar type patients who have been treated by SNCH without the benefit of the TCU.

Total project costs are estimated at \$4,068,472.

DOH Recommendation
Contingent approval.

Need Summary

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010, authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis.

Program Summary

The principal elements of the proposed TCU program are:

- 20-bed unit on the F-Wing, First Floor
- Single and Double-bedded Rooms

Financial Summary

Project costs will be met with accumulated funds from the Hospital.

Incremental Budget:	<i>Revenues:</i>	\$ 3,592,985
	<i>Expenses:</i>	<u>3,418,669</u>
	<i>Gain/(Loss):</i>	\$ 174,316

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project involves the renovation of 14,500 SF of the first floor of the main hospital building for a 20-bed transitional care unit.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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]

Council Action Date

June 16, 2011.

Need Analysis

Background

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010 authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis. The original TCU enabling legislation of 2005 authorized five demonstration projects.

Transitional Care Unit Purpose

Section 2802-a of PHL defines "transitional care" as sub-acute care services provided to inpatients of a general hospital who no longer require acute care inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet ready for discharge. TCUs should be limited in length of stay and designed to meet and resolve patients' specific sub-acute medical care needs. Discharges from these units are to be timely and appropriate.

The improvement of quality outcomes for the TCU population through the provision of appropriate services, delivered in the most efficient manner, is the primary goal of the TCU demonstration program. Hospitals selected for this program are required to demonstrate an overall decrease in length of stay, quantify the clinical benefits of the program for TCU patients, and illustrate a synergistic relationship with long term care providers in the community. Collaboration between hospitals and nursing homes in local service areas will help bring about more efficient allocation of patients between the two settings.

In accordance with Section 2802-a of PHL, all providers in this demonstration program must meet all Conditions of Participation (CoP) for skilled nursing facilities (SNFs) as defined under Title XVIII of the Federal Social Security Act (Medicare). In order to qualify for Medicare certification, providers must comply with Part 415 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR). In this demonstration, providers not currently licensed to operate nursing home beds will not be required to obtain Public Health and Health Planning Council establishment approval. Additionally, TCU units are not recognized as RHCF beds as defined in 10 NYCRR Section 709.3.

As part of this demonstration program, specific State SNF regulations that may impede the development of TCUs or their ability to provide appropriate services to patients may be subject to waiver, at the discretion of the Department. Such issues will be reviewed on an individual basis.

Applicants must demonstrate the need for any services proposed within the TCU and emphasize the benefits of such a program to a specific community, including, but not limited to, addressing the absence of sufficient post-discharge services in nursing homes and community-based care.

Transitional care units should be limited in length of stay and designed to meet and resolve specific sub-acute medical care needs. The average length of stay for patients served in a TCU ranges from 5 to 21 days, following a qualifying acute care stay. TCU services will be reimbursed at the applicable Medicare per diem SNF rate.

Transitional Care Unit Criteria and Requirements

Section 2802-a requires all providers applying to participate in this demonstration program to meet all applicable requirements as defined under Title XVIII of the Federal Social Security Act (Medicare). Additionally, Transitional Care Units must:

- Have a length of stay of not less than 5 days and not in excess of 21 days;
- Have a pre-opening survey, separate Medicare Number, and SNF certification;
- Be staffed by qualified staff dedicated to the TCU;
- Serve patients who will benefit from active rehabilitation. (It is expected that patients will actively participate in three hours or more of Occupational Therapy/Physical Therapy/Speech Therapy, every day, either three hours consecutively or in combination between rehabilitative sessions); and

- Collect information and submit reports to the Department on an annual basis to demonstrate an overall decrease in length of stay; quantify the clinical benefits of the program for TCU residents and illustrate a synergistic relationship with long term care providers.

Applications must address the configuration of the Transitional Care Unit. However, the applicant must adhere to the following requirements:

- Beds must be located at one geographic location; and
- Beds must be located contiguously within a distinct unit/space within the hospital.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The TCU will focus on patients that if not discharged to the TCU would, otherwise, continue to be served in a Med/Surg bed. These patients will remain in the TCU for a short stay (e.g., TCU Demo criteria call for stays of 5 to 21 days, averaging 8 to 12 days). The applicant projects an average length of stay of 7.1 days.

The TCU will focus on patients who will benefit from an aggressive rehabilitation program consisting of at least three (3) hours of rehabilitation per day, particularly patients with cardiovascular and cerebrovascular disease.

The TCU will be under the direct responsibility of the Hospital CEO and will include a senior team consisting of a Licensed Nursing Home Administrator, who will be employed part-time as the TCU Administrator, and a Nurse Manager with both hospital and nursing home experience. The team will also include a part-time Medical Director, an MDS Coordinator who will ensure medical documentation complies with Medicare regulations and Medicare reimbursement requirements, Registered Nurses; Certified Nurse Aides, Physical/Occupational/Speech Therapists, an MSW who will serve as the Director of Social Services, and a Recreational Therapist. An interdisciplinary care team will be responsible for the coordination and continuity of patient care.

The applicant will work collaboratively with other health care providers in Nassau County to improve the quality of care provided to the elderly; decrease length of stay in acute care facilities; facilitate placement of elderly and disabled populations in the least restrictive setting; create community and clinician acceptance of the nursing home as a temporary site for transitional care; provide enhanced discharge planning; enhance nursing homes' capabilities to treat more complex patients on a transitional basis; and demonstrate that a proactive partnership between hospitals, nursing homes and assisted living facilities results in the most efficient use of local resources.

The applicant will submit an annual progress report on TCU operations to the Department of Health.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Costs

Total project costs for renovations and the acquisition of movable equipment is estimated at \$4,068,472, broken down as follows:

Renovation & Demolition	\$3,239,250
Architect/Engineering Fees	308,500
Consultant Fees	51,416

Movable Equipment	445,063
Application Fee	2,000
Additional Processing Fee	<u>22,243</u>
Total Project Cost	\$4,068,472

Project costs are based on a July 1, 2011 start date and a nine month construction period. South Nassau Communities Hospital will finance total project costs through accumulated funds.

Operating Budget

The applicant has submitted an incremental operating budget in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$3,498,916	\$3,592,985
Expenses		
Operating:	2,951,481	3,014,246
Depreciation & Rent	<u>404,423</u>	<u>404,423</u>
Total Expenses:	\$3,355,904	3,418,669
Net Income:	\$143,012	\$174,316
Utilization (patient days)	6,935	7,118

Utilization for the first and third years is 100% Medicare Fee for Service.

Expense and utilization assumptions are based on the historical experience of South Nassau Communities Hospital inpatients.

Capability and Feasibility

Project cost will be satisfied by accumulated funds from South Nassau Communities Hospital. Presented as BFA Attachment A is the financial summary of the Hospital showing sufficient funds.

Working capital of \$569,778 based on two months of third year expenses will come from hospital operations.

The submitted incremental budget indicates a net income of \$143,012 and \$174,316 for the first and third years of operation, respectively. The Medicare revenues were based on a blend of 53 DRGs associated with SNCH medically complex patients and excess days these patients spent in the Hospital. The budget appears reasonable. South Nassau Communities Hospital has maintained positive working capital and net asset positions, and generated positive net income of \$1,087,333 and \$22,390,387 for the years 2008 and 2009, respectively. As of December 31, 2010, the facility has maintained a net income of \$26,420,446.

SNCH had many successes in 2009 and continuing into 2010, resulting in the significant increase in net income. This increase was due to the following:

- Focused recruitment to SNCH medical staff utilizing both employment and physician alliance investment strategies has served to promote the practice of quality medicine which ultimately has led to significant volume growth.
- SNCH was able to add FTEs to the Hospitalist Program, the Case Management Program and the Social Services Department which were key drivers in reducing patient length of stay (LOS). By 2009 LOS was reduced by .43 days. In summary, SNCH had 501 additional discharges with 6,209 fewer patient days and approximately \$1,800,000 in cost savings.
- Facility department heads were committed to reducing overtime. The nursing department alone reduced their overtime over 30% and non-nursing departments averaged a reduction of 11%. The reduced overtime saved SNCH approximately \$1,800,000.

- Referred ambulatory revenue increased \$4,500,000 in 2009.
- The addition of two physicians and additional diagnostic equipment to Complete Women's Imaging increased revenue by \$1,300,000.
- Equipment upgrades improved quality and efficiency which increased outpatient revenue by \$2,100,000.
- In 2009 the Medicare case mix went up 4 points with each point increasing revenue by \$720,000 a year, which is equivalent to approximately \$2,880,000 in patient revenues. The non-Medicare case mix went up 7 points with each point increasing revenue \$360,000 per year, which is equivalent to approximately \$2,520,000 in patient revenues.

The hospitals revenue cycle was improved with accounts receivable (AR) going down five days in 2009, to forty six days. AR went down a total of nine days in the last two years and twenty six days in the last six years. Each day is \$1,000,000 in cash, which adds to cash flow.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

This project will consist of 14,500 SF of renovation of the first floor of the main hospital building and will include 20 transitional care beds, 10 private patient beds and 10 semi-private patient beds. The ten private rooms will have new handicapped accessible toilet rooms. The five existing semi-private rooms have water closet rooms that will remain. Also included are bathing facilities, dining space, recreation space, a conference room, consultation room, nurse station, medication room, nourishment room, clean and soiled utility rooms, linen room, administrative offices, storage rooms, and staff locker and toilet rooms.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations..

Recommendation

From an architectural perspective, approval is recommended.

Attachments

- | | |
|------------------|--|
| BFA Attachment A | Financial Summary, South Nassau Communities Hospital and Subsidiaries |
| BFA Attachment B | Financial Summary, South Nassau Communities Hospital and Subsidiaries - 2010 internals |



Public Health and Health Planning Council

Project # 102367-T

St. Francis Hospital

County: Nassau (Roslyn)
Purpose: Demonstration

Program: Transitional Care Unit
Submitted: November 18, 2010

Executive Summary

Description

St. Francis Hospital, a 364 bed not-for-profit hospital located in Roslyn, Nassau County, requests approval to create an 11-bed Transitional Care Unit (TCU) designed to meet the needs of seriously ill but medically stable patients who still require continuous skilled nursing care, rehabilitative and/or technological treatment and support. On September 1, 2010, the Department of Health requested applications in accordance with the provisions of Section 2802-a of the Public Health Law for a TCU Demonstration Program.

St. Francis Hospital (SFH) is a regional referral center specializing in cardiac surgery, related cardiac service needs, and a community hospital to both local and the regional population. SFH is a founding member of the Catholic Health Services of Long Island.

This application proposes 11 TCU beds, despite need assessment showing that on average, there are 57 Med/Surg beds occupied by convalescing elders who are likely TCU/SNF candidates based on length of stay averaging 6.57, versus 4.47 days presumed length of stay based on DRG methodology. The TCU will be located in an existing nursing unit on the second floor of the Heart Center. Although, a larger TCU would yield a more significant financial impact, the proposed 11 bed TCU configuration, was chosen because the hospital is faced with space limitation issues. Also, SFH will evaluate and study the relative utility of this program, compared to possible alternative program options, as part of the TCU demonstration effort.

Total project costs are estimated at \$1,588,372.

DOH Recommendation
Contingent approval.

Need Summary

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010, authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis.

Program Summary

The principal elements of the proposed TCU program are:

- 11-bed unit, Second Floor, Heart Center Building
- Single and Double-bedded Rooms

Financial Summary

Project costs will be met with accumulated funds from the Hospital.

Incremental Budget:	<i>Revenues:</i>	\$ 1,712,000
	<i>Expenses:</i>	<u>915,200</u>
	<i>Gain/(Loss):</i>	\$ 796,800

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project involves the renovation of 4,040 SF of the second floor of the Heart Center Building for a 11-bed transitional care unit.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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]

Council Action Date

June 16, 2011.

Need Analysis

Background

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010 authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis. The original TCU enabling legislation of 2005 authorized five demonstration projects.

Transitional Care Unit Purpose

Section 2802-a of PHL defines "transitional care" as sub-acute care services provided to inpatients of a general hospital who no longer require acute care inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet ready for discharge. TCUs should be limited in length of stay and designed to meet and resolve patients' specific sub-acute medical care needs. Discharges from these units are to be timely and appropriate.

The improvement of quality outcomes for the TCU population through the provision of appropriate services, delivered in the most efficient manner, is the primary goal of the TCU demonstration program. Hospitals selected for this program are required to demonstrate an overall decrease in length of stay, quantify the clinical benefits of the program for TCU patients, and illustrate a synergistic relationship with long term care providers in the community. Collaboration between hospitals and nursing homes in local service areas will help bring about more efficient allocation of patients between the two settings.

In accordance with Section 2802-a of PHL, all providers in this demonstration program must meet all Conditions of Participation (CoP) for skilled nursing facilities (SNFs) as defined under Title XVIII of the Federal Social Security Act (Medicare). In order to qualify for Medicare certification, providers must comply with Part 415 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR). In this demonstration, providers not currently licensed to operate nursing home beds will not be required to obtain Public Health and Health Planning Council establishment approval. Additionally, TCU units are not recognized as RHCf beds as defined in 10 NYCRR Section 709.3.

As part of this demonstration program, specific State SNF regulations that may impede the development of TCUs or their ability to provide appropriate services to patients may be subject to waiver, at the discretion of the Department. Such issues will be reviewed on an individual basis.

Applicants must demonstrate the need for any services proposed within the TCU and emphasize the benefits of such a program to a specific community, including, but not limited to, addressing the absence of sufficient post-discharge services in nursing homes and community-based care.

Transitional care units should be limited in length of stay and designed to meet and resolve specific sub-acute medical care needs. The average length of stay for patients served in a TCU ranges from 5 to 21 days, following a qualifying acute care stay. TCU services will be reimbursed at the applicable Medicare per diem SNF rate.

Transitional Care Unit Criteria and Requirements

Section 2802-a requires all providers applying to participate in this demonstration program to meet all applicable requirements as defined under Title XVIII of the Federal Social Security Act (Medicare). Additionally, Transitional Care Units must:

- Have a length of stay of not less than 5 days and not in excess of 21 days;
- Have a pre-opening survey, separate Medicare Number, and SNF certification;
- Be staffed by qualified staff dedicated to the TCU;
- Serve patients who will benefit from active rehabilitation. (It is expected that patients will actively participate in three hours or more of Occupational Therapy/Physical Therapy/Speech Therapy, every day, either three hours consecutively or in combination between rehabilitative sessions); and

- Collect information and submit reports to the Department on an annual basis to demonstrate an overall decrease in length of stay; quantify the clinical benefits of the program for TCU residents and illustrate a synergistic relationship with long term care providers.

Applications must address the configuration of the Transitional Care Unit. However, the applicant must adhere to the following requirements:

- Beds must be located at one geographic location; and
- Beds must be located contiguously within a distinct unit/space within the hospital.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The TCU will focus on patients that if not discharged to the TCU would, otherwise, continue to be served in a Med/Surg bed. These patients will remain in the TCU for a short stay (e.g., TCU Demo criteria call for stays of 5 to 20 days, averaging 8 to 12 days).

The TCU will focus on patients with cardiovascular and cardiothoracic conditions who require complex sub-acute rehabilitation. Services will eventually be expanded to include those admitted for other morbidities, who also have an underlying cardiac condition.

The TCU will be under the direct responsibility of the Hospital CEO and will include a senior management team consisting of a Licensed Nursing Home Administrator who will be responsible for ongoing compliance with Medicare Conditions of Participation, a Medical Director and a full-time Nurse Manager with clinical experience in a hospital setting. The team will also include a part-time Medical Director, social worker, activities staff, registered nurses, including an MDS Coordinator; certified nurse aides, and physical therapists. An interdisciplinary care team will ensure the comprehensive care needs of the patient are met and will facilitate the continuity of care between the acute stay, the TCU convalescent stay; and the provision of care in the local nursing home, acute rehabilitation unit or at home, as appropriate for the patient.

The applicant will work collaboratively with other health care providers in Nassau County to increase awareness of how the TCU benefits all parties (hospital, nursing home, patient and payer) by expanding the nursing home's role in meeting the needs of the short stay, convalescing patient. Through its collaborative relationship with other hospitals, nursing homes and assisted living facilities, the applicant hopes to enhance continuity, reduce recidivism and expedite implementation of the TCU.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Costs

Total project costs for renovations and the acquisition of movable equipment is estimated at \$1,588,372 itemized as follows:

Renovation & Demolition	\$1,099,650
Asbestos Abatement	40,000
Design Contingency	109,965
Construction Contingency	109,965

Architect/Engineering	87,972
Other fees	21,993
Movable Equipment	108,150
Application Fee	2,000
Additional Processing Fee	<u>8,677</u>
Total Project Cost	\$1,588,372

Project costs are based on a September 1, 2011 start date and a six month construction period. St. Francis Hospital will finance total project costs through accumulated funds.

Operating Budget

The applicant has submitted an incremental operating budget in 2010 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$1,399,000	\$1,712,000
Expenses		
Operating:	705,200	801,800
Depreciation / Rent	<u>56,700</u>	<u>113,400</u>
Total Expenses:	\$761,900	\$915,200
Net Income:	\$ 637,100	\$ 796,800
Utilization (patient days)	2,948	3,468

Utilization for the first and third years is 100% Medicare Fee for Service.

Expense and utilization assumptions are based on the historical experience of St. Francis Hospital.

Capability and Feasibility

Project cost will be satisfied by accumulated funds from St. Francis Hospital. Presented as BFA Attachment A is the financial summary of the Hospital showing sufficient funds.

Working capital of \$152,533 based on two months of third year expenses will come from hospital operations.

The submitted incremental budget indicates a net income of \$637,100 and \$796,800 for the first and third years of operation, respectively. The Medicare revenues were based on a blend of 53 DRGs associated with St. Francis Hospital medically complex patients and excess days these patients spent in the Hospital. The budget appears reasonable.

St. Francis Hospital has maintained positive working capital and net asset positions and generated net operating revenue of \$42,279,000 and \$30,103,000 for the years 2008 and 2009, respectively. As of December 31, 2010 the facility has maintained a net operating income of \$41,061,000.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

This project will consist of 4,040 SF of renovation of the second floor of the Heart Center Building and will include 5 double bedrooms and one single bedroom. The transitional care unit will include an exam consultation room, nursing station, nourishment room, activity/dining room, staff lounge, office, patient bathing/tub room and medication room. The unit will also include a clean supply room, soiled utility room and an accessible toilet room. The design of the rooms and spaces will maximize opportunities for ambulation and self-care, socialization and independence.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary, St. Francis Hospital – 2008 and 2009 audited
BFA Attachment B	Financial Summary, St. Francis Hospital - 2010 internal



Public Health and Health Planning Council

Project # 102370-T Good Samaritan Hospital of Suffern

County: Rockland (Suffern)
Purpose: Demonstration

Program: Transitional Care Unit
Submitted: November 18, 2010

Executive Summary

Description

Good Samaritan Hospital of Suffern (GSH), a 370-bed voluntary not-for-profit hospital located at 255 Lafayette Avenue, Suffern, requests approval to create an 18-bed skilled nursing facility to function as a Transitional Care Unit (TCU) to bridge the gap between the Hospital's acute-care setting and post-acute care to ensure a smooth transition for care continuum. On September 1, 2010, the Department of Health requested applications in accordance with the provisions of Section 2802-a of the Public Health Law for a TCU Demonstration Program.

The TCU will be designed to achieve the following objectives:

- Improve clinical outcomes for medically complex patients by providing 24-hour skilled nursing and rehabilitative care prior to long-term care or discharge home.
- Assist patients to fully recover before discharge.
- Reduce overall patient length of stay.
- Prevent readmissions.
- Educate and prepare family members to care for these patients at home.

The TCU program will provide access to rehabilitation therapies, pulmonary management, surgical recovery, renal management with on site dialysis, nutritional support management, wound care, neurology, orthopedic and cardiac programs, oncology management, intravenous therapy, trauma care, therapeutic recreation activities and psychology services as necessary which in turn will reduce the Hospital's overall medical surgical length of stay per TCU eligible patient. The TCU unit will be located and self contained on the fourth floor of the Hospital.

GSH is part of the Bon Secours Charity Health System (BSCHS), which was formed in 2000 and is comprised of 3 acute care hospitals: GSH, St. Anthony Community Hospital (73 beds), and Bon Secours Community Hospital (141 beds); 2 residential health care facilities: Schervier Pavilion (120 beds) and St. Joseph's Place (46 beds) and an adult care facility (85 beds) with a 55-bed assisted living component.

The purpose of BHCSH was to create an integrated delivery system of caregivers and facilities in Orange and Rockland counties that strive to bring persons and communities to health and wholeness.

Total project costs are estimated at \$1,779,459.

DOH Recommendation
Contingent approval.

Need Summary

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010, authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis.

Program Summary

The principal elements of the proposed TCU program are:

- An 18-bed unit. The TCU unit will be located as a distinct unit within GSH on the fourth floor.
- Operations will focus on admitting those Diagnostic Related Groupings that have attributed to the highest levels of excess days at GSH.
- Single-bedded rooms will be contiguously located in discrete space of hospital.

Financial Summary

Project costs will be met with \$256,983 in accumulated funds from BSCHS and \$1,522,476 from a HEAL NY 11 grant.

Incremental Budget:	<i>Revenues:</i>	\$ 2,457,965
	<i>Expenses:</i>	<u>2,131,207</u>
	<i>Gain/(Loss):</i>	\$ 326,758

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project involves the renovation of 10,425 SF of the fourth floor of the Hospital for an 18-bed transitional care unit.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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]

Council Action Date

June 16, 2011.

Need Analysis

Background

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010 authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis. The original TCU enabling legislation of 2005 authorized five demonstration projects.

Transitional Care Unit Purpose

Section 2802-a of PHL defines "transitional care" as sub-acute care services provided to inpatients of a general hospital who no longer require acute care inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet ready for discharge. TCUs should be limited in length of stay and designed to meet and resolve patients' specific sub-acute medical care needs. Discharges from these units are to be timely and appropriate.

The improvement of quality outcomes for the TCU population through the provision of appropriate services, delivered in the most efficient manner, is the primary goal of the TCU demonstration program. Hospitals selected for this program are required to demonstrate an overall decrease in length of stay, quantify the clinical benefits of the program for TCU patients, and illustrate a synergistic relationship with long term care providers in the community. Collaboration between hospitals and nursing homes in local service areas will help bring about more efficient allocation of patients between the two settings.

In accordance with Section 2802-a of PHL, all providers applying to participate in this demonstration program must meet all Conditions of Participation (CoP) for skilled nursing facilities (SNFs) as defined under Title XVIII of the Federal Social Security Act (Medicare). In order to qualify for Medicare certification, providers must comply with Part 415 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR). In this demonstration, providers not currently licensed to operate nursing home beds will not be required to obtain Public Health and Health Planning Council establishment approval. Additionally, TCU units are not recognized as RHCFC beds as defined in 10 NYCRR Section 709.3.

As part of this demonstration program, specific State SNF regulations that may impede the development of TCUs or their ability to provide appropriate services to patients may be subject to waiver, at the discretion of the Department. Such issues will be reviewed on an individual basis.

Applicants must demonstrate the need for any services proposed within the TCU and emphasize the benefits of such a program to a specific community, including, but not limited to, addressing the absence of sufficient post-discharge services in nursing homes and community-based care.

Transitional care units should be limited in length of stay and designed to meet and resolve specific sub-acute medical care needs. The average length of stay for patients served in a TCU ranges from 5 to 21 days, following a qualifying acute care stay. TCU services will be reimbursed at the applicable Medicare per diem SNF rate.

Transitional Care Unit Criteria and Requirements

Section 2802-a requires all providers applying to participate in this demonstration program to meet all applicable requirements as defined under Title XVIII of the Federal Social Security Act (Medicare). Additionally, Transitional Care Units must:

- Have a length of stay of not less than 5 days and not in excess of 21 days;
- Have a pre-opening survey, separate Medicare Number, and SNF certification;
- Be staffed by qualified staff dedicated to the TCU;
- Serve patients who will benefit from active rehabilitation. (It is expected that patients will actively participate in three hours or more of Occupational Therapy/Physical Therapy/Speech Therapy, every day, either three hours consecutively or in combination between rehabilitative sessions); and

- Collect information and submit reports to the Department on an annual basis to demonstrate an overall decrease in length of stay; quantify the clinical benefits of the program for TCU residents and illustrate a synergistic relationship with long term care providers.

Applications must address the configuration of the Transitional Care Unit. However, the applicant must adhere to the following requirements:

- Beds must be located at one geographic location; and
- Beds must be located contiguously within a distinct unit/space within the hospital.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The applicant is affiliated the Bons Secours Charity Health System (BSCHS) an Accountable Care Organization consisting of three acute care hospitals, two residential health care facilities, an adult care facility with a 55-bed assisted living program and a home care agency aimed at delivering integrated care and services to the community and specifically Rockland and Orange Counties.

Projected average length of stay is expected to be 7 days. The applicant proposed that the TCU at GSH will provide a multitude of services and focus service delivery to those individuals requiring renal dialysis with complicating medical conditions, patients requiring intravenous antibiotics who also may require hyperbaric or complex wound care, geriatric and HIV-positive patients with dual diagnosis requiring medication adjustment to control behaviors and patients requiring radiation therapy treatment complicated by an inability to ambulate or those require oxygen therapy.

The applicant has proposed a management team consisting of a medical director, director of nursing and a licensed nursing home administrator. Care will be provided by a team of professionals including registered nurses, physicians, social workers, and recreation therapists. In addition to this staff, the applicant’s initial staffing proposal identifies all necessary key personnel required to operate the TCU program.

The applicant proposes to renovate an existing medical/surgical nursing unit occupying 7,164 sq of the hospital’s third floor to support the program. The TCU will be comprised of 18 single-bedded rooms meeting all applicable code requirements.

Additionally, the applicant’s proposal details how the organization will monitor the achievement of measurable goals and outcomes including the implementation of a Performance Improvement Plan to measure, assess and improve processes related to TCU activities.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Costs

Total project costs for renovations and the acquisition of movable equipment is estimated at \$1,779,459, broken down as follows:

Renovation & Demolition	\$ 1,299,833
Design Contingency	129,983
Construction Contingency	129,983

Architect/Engineering Fees	128,087
Movable Equipment	79,850
Application Fee	2,000
Additional Processing Fee	<u>9,723</u>
Total Project Cost	<u>\$1,779,459</u>

Project costs are based on a June 1, 2011 construction start date and a four month construction period. GSH will finance project costs with \$256,983 accumulated funds and \$1,522,476 from HEAL NY 11 Grant.

The applicant has submitted an incremental operating budget in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$2,328,599	\$2,457,965
Expenses:		
Operating	\$1,956,718	\$2,038,827
Depreciation and Rent	<u>92,379</u>	<u>92,379</u>
Total Expenses	\$2,049,097	\$2,131,207
Net Income	<u>\$279,502</u>	<u>\$326,758</u>
Utilization: Patient Days	5,913	6,242

Utilization for the first and third years is 100% Medicare.

Expense and utilization assumptions are based on the historical experience of Good Samaritan Hospital of Suffern inpatients.

Capability and Feasibility

Project cost will be satisfied by accumulated funds from Bon Secours Charity Health System, Inc. and a HEAL NY 11 grant. Presented as BFA Attachment A is the financial summary of Bon Secours Charity Health System, Inc. showing sufficient funds.

Working capital of \$355,201 based on two months of third year expenses will come from hospital operations.

The submitted incremental budget indicates a net income of \$279,502 and \$326,758 during the first and third years of operation, respectively. The budget appears reasonable. Bon Secours Charity Health System, Inc. maintained positive net asset and working capital positions and experienced negative net income in 2008 and 2009, which was due to volumes in both the inpatient and outpatient areas. In order to correct this, one of the strategic initiatives was to focus on physician alignment activities in Rockland County in order to recruit and generate new patient business from physicians that are currently aligned with other surrounding health facilities. The facility also invested in technology in order to bring state of the art equipment to attract physicians to utilize the facility. The facility expects to start to see benefits from these initiatives beginning in the final 5 months of the facility's 2011 fiscal year.

The Medicare revenues were based on a blend of 53 DRGs associated with GSH medically complex patients and excess days these patients spent in the Hospital. The budget appears reasonable.

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

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

This project will consist of 10,425 SF of renovation of the fourth floor of the Hospital and will include 18 transitional care beds, all in private patient bedrooms. Also included are a dining/multi-purpose room, day room, education room, treatment room, and shower and bathing rooms. Administrative offices, a nurse station, medication room, nourishment room, clean and soiled utility rooms, occupational and physical therapy storage rooms, and a staff lounge and staff toilet room are also included.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary of Bon Secours Charity Health System, Inc. - 2008 and 2009 Audited
BFA Attachment B	Financial Summary of Bon Secours Charity Health System, Inc. - 2010 internals



Public Health and Health Planning Council

Project # 102371-T
Brookhaven Memorial Hospital Medical Center, Inc.

County: Suffolk (Patchogue)
Purpose: Demonstration

Program: Transitional Care Unit
Submitted: November 18, 2010

Executive Summary

Description

Brookhaven Memorial Hospital Medical Center, Inc., a 306-bed not-for-profit hospital located in East Patchogue, requests approval to create an 18-bed Transitional Care Unit (TCU) to bridge the gap between the Hospital's acute-care setting and post-acute care to ensure a smooth transition for care continuum. On September 1, 2010, the Department of Health requested applications in accordance with the provisions of Section 2802-a of the Public Health Law for a TCU Demonstration Program.

The TCU will be designed to achieve the following objectives:

- Provide a new continuum of care (sub-acute) that is a lower level than that which is typically offered in the hospital's acute care setting, but is higher than that which is provided in most skilled care facilities.
- Improve the quality of care to older persons.
- Provide more seamless care.
- Enhance patient outcomes.
- Reduce overall length of stay in the hospital.
- Reduce Medical Surgical length of stay by convalescing elders.
- Reduce length of stay in area skilled care facilities.
- Decrease Emergency Department admissions and re-admissions into the hospital's acute care units.
- Reduce overall healthcare spending by reducing re-admissions of elders into the hospital for acute care situations following a discharge from the hospital to home care setting.

The TCU program will provide access to rehabilitation therapies, wound care, intravenous antibiotics, dialysis and specialized treatments as necessary, which in turn will reduce the Hospital's overall medical/surgical length of stay per TCU eligible patient.

Total project costs are estimated at \$3,788,977.

DOH Recommendation

Contingent approval.

Need Summary

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010, authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis.

Program Summary

The principal elements of the proposed TCU program are:

- An 18-bed unit to provide sub-acute services to medically complex patients in need of services not generally provided in the community and for those awaiting placement in an acute rehabilitation facility.
- Location in a hospital serving the 28 towns and villages of Suffolk County
- Operation by a facility with dedicated staff, with access to specialist acute care professionals.
- Single-bedded and double bedded rooms, dining/activities, and therapy space located in renovated space on a discrete unit.

Financial Summary

Project costs will be met with accumulated funds from the hospital.

Incremental Budget:	<i>Revenues:</i>	\$ 2,727,905
	<i>Expenses:</i>	<u>2,672,368</u>
	<i>Gain/(Loss):</i>	\$ 55,537

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

The applicant is proposing to renovate and reuse an existing Medical/Surgical Unit to be operated as an 18-bed TCU. The proposed 6,200 SF unit will occupy the entire second floor of the buildings 2-East Wing.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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]

Council Action Date

June 16, 2011.

Need Analysis

Background

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010 authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis. The original TCU enabling legislation of 2005 authorized five demonstration projects.

Transitional Care Unit Purpose

Section 2802-a of PHL defines "transitional care" as sub-acute care services provided to inpatients of a general hospital who no longer require acute care inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet ready for discharge. TCUs should be limited in length of stay and designed to meet and resolve patients' specific sub-acute medical care needs. Discharges from these units are to be timely and appropriate.

The improvement of quality outcomes for the TCU population through the provision of appropriate services, delivered in the most efficient manner, is the primary goal of the TCU demonstration program. Hospitals selected for this program are required to demonstrate an overall decrease in length of stay, quantify the clinical benefits of the program for TCU patients, and illustrate a synergistic relationship with long term care providers in the community. Collaboration between hospitals and nursing homes in local service areas will help bring about more efficient allocation of patients between the two settings.

In accordance with Section 2802-a of PHL, all providers in this demonstration program must meet all Conditions of Participation (CoP) for skilled nursing facilities (SNFs) as defined under Title XVIII of the Federal Social Security Act (Medicare). In order to qualify for Medicare certification, providers must comply with Part 415 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR). In this demonstration, providers not currently licensed to operate nursing home beds will not be required to obtain Public Health and Health Planning Council establishment approval. Additionally, TCU units are not recognized as RHCf beds as defined in 10 NYCRR Section 709.3.

As part of this demonstration program, specific State SNF regulations that may impede the development of TCUs or their ability to provide appropriate services to patients may be subject to waiver, at the discretion of the Department. Such issues will be reviewed on an individual basis.

Applicants must demonstrate the need for any services proposed within the TCU and emphasize the benefits of such a program to a specific community, including, but not limited to, addressing the absence of sufficient post-discharge services in nursing homes and community-based care.

Transitional care units should be limited in length of stay and designed to meet and resolve specific sub-acute medical care needs. The average length of stay for patients served in a TCU ranges from 5 to 21 days, following a qualifying acute care stay. TCU services will be reimbursed at the applicable Medicare per diem SNF rate.

Transitional Care Unit Criteria and Requirements

Section 2802-a requires all providers applying to participate in this demonstration program to meet all applicable requirements as defined under Title XVIII of the Federal Social Security Act (Medicare). Additionally, Transitional Care Units must:

- Have a length of stay of not less than 5 days and not in excess of 21 days;
- Have a pre-opening survey, separate Medicare Number, and SNF certification;
- Be staffed by qualified staff dedicated to the TCU;
- Serve patients who will benefit from active rehabilitation. (It is expected that patients will actively participate in three hours or more of Occupational Therapy/Physical Therapy/Speech Therapy, every day, either three hours consecutively or in combination between rehabilitative sessions); and

- Collect information and submit reports to the Department on an annual basis to demonstrate an overall decrease in length of stay; quantify the clinical benefits of the program for TCU residents and illustrate a synergistic relationship with long term care providers.

Applications must address the configuration of the Transitional Care Unit. However, the applicant must adhere to the following requirements:

- Beds must be located at one geographic location; and
- Beds must be located contiguously within a distinct unit/space within the hospital.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The TCU will focus on patients that if not discharged to the TCU would otherwise, continue to be served in a Med/Surg bed. These patients will remain in the TCU for a short stay of not less than 5 and no more than 21 days. The applicant projects an average length of stay of 8 to 12 days.

The TCU will focus on the most medically complex and costly patients, e.g. those who are the sickest within their respective DRG group, often with multiple diagnoses, including diabetes and other chronic and episodic illnesses experienced by older adults and the elderly. Other patients expected to be routinely admitted include those who may need an additional few days of rehabilitation prior to discharge to home, as well as those needing more extensive rehabilitation therapy prior to discharge to an Acute Rehabilitation Facility, and those with medical complications not yet suitable for Sub-Acute Rehabilitation.

The TCU will be under the direct responsibility of the Hospital COO and will include a senior team consisting of a Licensed Nursing Home Administrator who will be employed part-time as the TCU Administrator, Nurse Manager with hospital experience, and a part-time Physician Medical Director. The team will also include an MDS Coordinator, Register Nurses; Certified Nurse Aides, a Social Worker, and Activities and Therapy staff. An interdisciplinary care team will be responsible for the coordination and continuity of patient care.

The applicant has a memorandum of understanding with an adjacent RHCF, Brookhaven Health Care Facility (BHCF). BHCF will serve as a consultant in the design of the TCU, assist in recruitment of staff, including a licensed and registered RHCF administrator, and will provide outreach to other local RHCF regarding the TCU program.

The applicant will submit annual progress reports on TCU operations to the Department of Health.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Cost

Total project costs for renovations and the acquisition of movable equipment are estimated at \$3,788,977, broken down as follows:

Renovation & Demolition	\$ 2,575,000
Site Development	51,500
Asbestos Abatement	96,408
Design Contingency	257,500

Construction Contingency	257,500
Architect/Engineering Fees	236,900
Movable Equipment	265,705
Telecommunications	25,750
Application Fee	2,000
Additional Processing Fee	20,714
Total Project Cost	<u>\$3,788,977</u>

Project costs are based on a June 1, 2011 construction start date and a six-month construction period. Brookhaven Memorial Hospital Medical Center, Inc. will finance all project costs through accumulated funds.

The applicant has submitted an incremental operating budget in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$2,671,659	\$2,727,905
Expenses:		
Operating	\$2,477,839	\$2,527,396
Depreciation and Rent	<u>144,972</u>	<u>144,972</u>
Total Expenses	\$2,622,811	\$2,672,368
Net Income/(Loss)	<u>\$48,848</u>	<u>\$55,537</u>
Utilization: Patient Days	6,242	6,373

Utilization for the first and third years is 100% Medicare.

Expense and utilization assumptions are based on the historical experience of Brookhaven Memorial Hospital Medical Center, Inc. inpatients.

Capability and Feasibility

Project cost will be satisfied by accumulated funds from Brookhaven Memorial Hospital Medical Center, Inc. Presented as BFA Attachment A is the financial summary of the Hospital showing sufficient funds.

Working capital of \$479,098 based on two months of third year expenses will come from hospital operations.

The submitted incremental budget indicates a net gain of \$48,848 and \$55,537 during the first and third years of operation, respectively. The budget appears reasonable. Brookhaven Memorial Hospital Medical Center, Inc. maintained both average positive net asset and working capital positions for the period 2008-2009. The facility also maintained an average net loss of \$1,168,953 during this same period. The loss was due to a one-time settlement with the Department of Justice, which was booked in 2009 and affected the profit/loss of the Hospital by \$2,917,952. Without the settlement, the facility would have had a positive net income of \$303,468 for 2009. In looking at the 2010 interim financials for the facility, the facility has again shown a loss, but it is only for \$16,216 and again come from a one-time occurrence for a change in the valuation swap; without that, the facility has a positive net income of \$651,430.

The Medicare revenues were based on a blend of 53 DRGs associated with GSH medically complex patients and excess days these patients spent in the Hospital. The budget appears reasonable.

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

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

The applicant is proposing to renovate and reuse an existing 33-Bed Med/Surgical Unit for conversion to an 18 bed TCU. The proposed 6,200 SF, will include 9 single bed patient rooms, 4 double bed patient rooms, 1 isolation room. Also included are a 317 SF nurses station, 311 SF PT/OT room, 434 SF dining/recreation/multipurpose room, staff lounge with lockers, staff toilet, nursing director and medical director's offices, medication room, nourishment room, clean and soiled utility rooms, and other support spaces. The proposed unit will occupy the entire second floor of the buildings 2-East Wing. Associated MEP work will be performed, including the provision of full automatic sprinklers and detection systems within the TCU, resulting in the entire building wing occupied by the TCU being sprinklered. The applicant anticipates that construction waivers will be required for the width of a central corridor, and the provision of emergency power systems. The lack of compliance cannot currently be evaluated.

Environmental Review

The Department has deemed this project to be a TYPE II Action that will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary of Brookhaven Memorial Hospital Medical Center, Inc - 2008 and 2009
BFA Attachment B	Financial Summary of Brookhaven Memorial Hospital Medical Center, Inc - 2010 internals



Public Health and Health Planning Council

Project # 102372-T

Glens Falls Hospital

County: Warren (Glens Falls)
Purpose: Demonstration

Program: Transitional Care Unit
Submitted: November 18, 2010

Executive Summary

Description

Glens Falls Hospital (GFH) a 410-bed not-for-profit hospital located in Glens Falls, requests approval to create a 22 bed Transitional Care Unit (TCU) designed to meet the needs of seriously ill but medically stable patients who still require continuous skilled nursing care, rehabilitative and/or technological treatment and support. On September 1, 2010, the Department of Health requested applications in accordance with the provisions of Section 2802-a of the Public Health Law for a TCU Demonstration Program.

The mission of the TCU is to fill a gap in the spectrum of institutional health services and to improve the cost, quality, efficiency for the patient, the hospital and health delivery system. The quality of care afforded to home bound, convalescing, elder patients will be improved through earlier intervention of rehabilitative services, continuity of care, and the availability of a more appropriate inpatient resource for convalescence. The hospital will experience a reduced Medicare length of stay. The health delivery system will be enhanced through continuity among providers of acute and post-acute care by integrating the discharge planning and post-acute planning process.

GFH is requesting approval to renovate an existing Med/Surg unit to a TCU. The TCU will be located on the third floor of GFH, in close proximity to existing nursing units.

In 2009, GFH served 5,475 Medicare indemnity beneficiaries. These patients had an average length of stay of 6.17 days, (versus a Medicare DRG geometric mean length of stay of 4.4 days), yielding 9,601 days in excess of the Medicare DRG. In 2009, these excess days required the hospital to subsidize approximately \$2.8 million of cost without any additional reimbursement.

Total project costs are estimated at \$504,750.

DOH Recommendation

Contingent approval.

Need Summary

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010, authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis.

Program Summary

The principal elements of the proposed TCU program are:

- A 22-bed unit. The TCU unit will be located on the third floor of Glens Falls Hospital in close proximity to existing nursing units.
- Operations will focus on improving the continuity across the health care continuum with active discharge coordination between the hospital, home care service industry and local skilled nursing facilities. Early intervention strategies will be employed to reduce the rate of hospital readmission.
- Double-bedded rooms will be contiguously located in discrete space of hospital.

Financial Summary

Project costs will be met with accumulated funds from the Hospital.

Incremental Budget:	Revenues:	\$ 2,630,737
	Expenses:	<u>949,567</u>
	Gain/(Loss):	\$ 1,681,170

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project involves the renovation of 7,164 SF of the third floor of the hospital for a 22-bed transitional care unit.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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]

Council Action Date

June 16, 2011.

Need Analysis

Background

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010 authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis. The original TCU enabling legislation of 2005 authorized five demonstration projects.

Transitional Care Unit Purpose

Section 2802-a of PHL defines "transitional care" as sub-acute care services provided to inpatients of a general hospital who no longer require acute care inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet ready for discharge. TCUs should be limited in length of stay and designed to meet and resolve patients' specific sub-acute medical care needs. Discharges from these units are to be timely and appropriate.

The improvement of quality outcomes for the TCU population through the provision of appropriate services, delivered in the most efficient manner, is the primary goal of the TCU demonstration program. Hospitals selected for this program are required to demonstrate an overall decrease in length of stay, quantify the clinical benefits of the program for TCU patients, and illustrate a synergistic relationship with long term care providers in the community. Collaboration between hospitals and nursing homes in local service areas will help bring about more efficient allocation of patients between the two settings.

In accordance with Section 2802-a of PHL, all providers in this demonstration program must meet all Conditions of Participation (CoP) for skilled nursing facilities (SNFs) as defined under Title XVIII of the Federal Social Security Act (Medicare). In order to qualify for Medicare certification, providers must comply with Part 415 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR). In this demonstration, providers not currently licensed to operate nursing home beds will not be required to obtain Public Health and Health Planning Council establishment approval. Additionally, TCU units are not recognized as RHCf beds as defined in 10 NYCRR Section 709.3.

As part of this demonstration program, specific State SNF regulations that may impede the development of TCUs or their ability to provide appropriate services to patients may be subject to waiver, at the discretion of the Department. Such issues will be reviewed on an individual basis.

Applicants must demonstrate the need for any services proposed within the TCU and emphasize the benefits of such a program to a specific community, including, but not limited to, addressing the absence of sufficient post-discharge services in nursing homes and community-based care.

Transitional care units should be limited in length of stay and designed to meet and resolve specific sub-acute medical care needs. The average length of stay for patients served in a TCU ranges from 5 to 21 days, following a qualifying acute care stay. TCU services will be reimbursed at the applicable Medicare per diem SNF rate.

Transitional Care Unit Criteria and Requirements

Section 2802-a requires all providers applying to participate in this demonstration program to meet all applicable requirements as defined under Title XVIII of the Federal Social Security Act (Medicare). Additionally, Transitional Care Units must:

- Have a length of stay of not less than 5 days and not in excess of 21 days;
- Have a pre-opening survey, separate Medicare Number, and SNF certification;
- Be staffed by qualified staff dedicated to the TCU;
- Serve patients who will benefit from active rehabilitation. (It is expected that patients will actively participate in three hours or more of Occupational Therapy/Physical Therapy/Speech Therapy, every day, either three hours consecutively or in combination between rehabilitative sessions); and

- Collect information and submit reports to the Department on an annual basis to demonstrate an overall decrease in length of stay; quantify the clinical benefits of the program for TCU residents and illustrate a synergistic relationship with long term care providers.

Applications must address the configuration of the Transitional Care Unit. However, the applicant must adhere to the following requirements:

- Beds must be located at one geographic location; and
- Beds must be located contiguously within a distinct unit/space within the hospital.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The applicant proposes to renovate an existing medical/surgical nursing unit occupying 7,164 sq of the hospital's third floor to support the program. The TCU will be comprised of 10 semi-private rooms meeting all applicable code requirements.

The TCU will focus on patients that if not discharged to the TCU would otherwise receive care on a medical/surgical hospital unit. The geographic catchment area includes five counties, Essex, Hamilton, Washington, Warren and Saratoga. Within this five-county area, only Saratoga County has a Certified Home Health Agency (CHHA). Two counties have skilled nursing facilities that provide no IV therapy services.

The applicant projects that the majority of individuals residing on the TCU will be home-bound, with an average length of stay of 8 to 12 days. Inpatient care for TCU residents will focus on three broad categories of admissions, including clinically complex (complex wound management and nutritional services), those requiring rehabilitative therapy services who do not qualify for acute rehabilitative programs but who may require the ancillary services provided by the acute care general hospital, and lastly, those individuals who are home-bound but who require an additional few days to achieve functional goals necessary to support their post-acute discharge.

The Glens Falls Hospital President and Chief Executive Officer proposes a TCU management team consisting of a full-time Director of Nursing with clinical experience in a TCU, SNF and hospital setting, a part-time licensed Nursing Home Administrator responsible for the regulatory compliance with Medicare Conditions of Participation and all NYS applicable requirements, along with a host of various disciplines necessary to ensure safe and efficient medical care and service delivery.

Additionally, the applicant proposes to organize and participate in a TCU Management Council who will meet, at least, on a quarterly basis to review trends and patterns of the TCU population at Glens Falls Hospital. The applicant suggests that the council will foster open communication among all providers in the elder care continuum. Cooperative agreements have been signed by six of the eight local long term care providers following extensive discussion of this project with the proposed applicant.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Costs

Total project costs for renovations and the acquisition of movable equipment are estimated at \$504,750, itemized as follows:

Renovation & Demolition	\$400,000
Asbestos Abatement	20,000
Design Contingency	40,000
Construction Contingency	40,000
Application Fee	2,000
Additional Processing Fee	<u>2,750</u>
Total Project Cost	\$504,750

Project costs are based on a September 1, 2011 start date and a three month construction period. Glens Falls Hospital will finance total project costs through accumulated funds.

Operating Budget

The applicant has submitted an incremental operating budget in 2010 dollars, for the first and third years of operation, summarized below:

	<u>Years One and Three</u>
Revenues:	\$2,630,737
Expenses	
Operating:	916,234
Depreciation & Rent	<u>33,333</u>
Total Expenses:	\$949,567
Net Income:	\$1,681,170
Utilization (patient days)	7,300

Utilization for the first and third years is 100% Medicare Fee for Service.

Expense and utilization assumptions are based on the historical experience of Glens Falls Hospital.

Capability and Feasibility

Project costs will be satisfied by accumulated funds from Glens Falls Hospital. Presented as BFA Attachment A is the financial summary of the Hospital showing sufficient funds.

Working capital of \$158,261 based on two months of third year expenses will come from hospital operations. The submitted incremental budget indicates a net income of \$1,681,170 for the first and third years of operation. The Medicare revenues were based on a blend of 53 DRGs associated with Glens Falls Hospital medically complex patients and excess days these patients spent in the Hospital. The budget appears reasonable. Glens Falls Hospital has maintained positive working capital and net asset positions and generated net operating loss of \$5,651,161 and \$1,759,656 for the years 2008 and 2009, respectively. As of December 31, 2010 the facility has maintained net operating income of \$3,184,000.

The applicant indicates that they have engaged a consultant to design and implement improvements to revenue cycle process to improve cash flow and overall yield on third party payor payments. Additionally, beginning in 2009 GFH instituted a freeze on new hires other than to replace turnover when volumes dictate necessity. In addition, a freeze on discretionary capital expenditures was implemented. GFH is presently focusing on the implementation of a three-year operational plan to achieve and improve upon the 2010 operating margin of 1.0%.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

This project will consist of 7,164 SF of renovation of the third floor of the hospital and will include 22 transitional care beds in 11 semi-private patient bedrooms. Also included are a dayroom/dining room, exam/treatment room, two shower rooms with adjacent handicapped toilet room, nurse station, nourishment area, clean supply room with pyxis medication dispensing unit, equipment storage room, soiled workroom and a staff lounge with staff toilet room.

Environmental Review

The Department has deemed this project to be a TYPE II Action that will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary, Glens Falls Hospital -2008/2009 audited
BFA Attachment B	Financial Summary, Glens Falls Hospital - 2010 internal



Public Health and Health Planning Council

Project # 102373-T Northern Westchester Hospital

County: Westchester (Mount Kisco)
Purpose: Demonstration

Program: Transitional Care Unit
Submitted: November 18, 2010

Executive Summary

Description

Northern Westchester Hospital (NWH), a 233-bed not-for-profit hospital located in Mount Kisco, requests approval to create a 12-bed Transitional Care Unit (TCU) to bridge the gap between the Hospital's acute-care setting, and post-acute care, to ensure a smooth transition for care continuum. On September 1, 2010, the Department of Health requested applications in accordance with the provisions of Section 2802-a, of the Public Health Law for a TCU Demonstration Program.

The TCU will be designed to achieve the following objectives:

- Improve clinical outcomes for medically complex patients by providing 24-hour skilled nursing and rehabilitative care prior to long-term care or discharge home;
- assist patients to fully recover before discharge;
- reduce overall patient length of stay;
- prevent readmissions, and
- educate and prepare family members to care for these patients at home.

The TCU program will provide access to rehabilitation therapies, wound care, intravenous antibiotics, dialysis and specialized treatments as necessary, which in turn will reduce the Hospital's overall medical surgical length of stay per TCU eligible patient. The TCU unit will be located and self contained on the fifth floor of the Hospital.

In 1996, Healthstar Network, Inc., d/b/a Stellaris Health Network, became the active parent and co-established operator of Northern Westchester Hospital. Stellaris Health Network, a not-for-profit corporation, is the sole member and supporter of NWH, White Plains Hospital Center, Lawrence Hospital Center, and Phelps Memorial Hospital Association. The purpose of Stellaris is to preserve a strong community-based healthcare system in Westchester and Putnam counties.

Total project costs are estimated at \$638,080.

DOH Recommendation
Contingent approval.

Need Summary

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010, authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis.

Program Summary

The principal elements of the proposed TCU program are:

- A 12-bed unit to provide sub-acute services to post acute medically complex patients in need of restorative and rehabilitative prior to discharge.
- Location in a hospital serving northern Westchester county.
- Operation by a facility with dedicated staff with access to specialist acute care professionals.
- Single-bedded rooms, dining/activities, and therapy space located in renovated space on a discrete unit.

Financial Summary

Project costs will be met with accumulated funds from NWH.

Incremental Budget:	<i>Revenues:</i>	\$ 1,706,019
	<i>Expenses:</i>	<u>407,786</u>
	<i>Gain/(Loss):</i>	\$ 1,298,233

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

The applicant is proposing to provide a 12-bed Transitional Care Unit comprising 6,192 SF. The unit is to be located on the fifth floor of a seven story hospital tower. A contiguous area of an existing nursing unit will house 12 single patient rooms and support spaces. Proposed renovations will include enlarging 10 patient toilet rooms and the construction of partitions to form a unit dining area and office. Rooms for OT and PT will also be provided in the suite, each with a dedicated toilet/shower room.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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]

Council Action Date

June 16, 2011.

Need Analysis

Background

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010 authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis. The original TCU enabling legislation of 2005 authorized five demonstration projects.

Transitional Care Unit Purpose

Section 2802-a of PHL defines "transitional care" as sub-acute care services provided to inpatients of a general hospital who no longer require acute care inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet ready for discharge. TCUs should be limited in length of stay and designed to meet and resolve patients' specific sub-acute medical care needs. Discharges from these units are to be timely and appropriate.

The improvement of quality outcomes for the TCU population through the provision of appropriate services, delivered in the most efficient manner, is the primary goal of the TCU demonstration program. Hospitals selected for this program are required to demonstrate an overall decrease in length of stay, quantify the clinical benefits of the program for TCU patients, and illustrate a synergistic relationship with long term care providers in the community. Collaboration between hospitals and nursing homes in local service areas will help bring about more efficient allocation of patients between the two settings.

In accordance with Section 2802-a of PHL, all providers applying to participate in this demonstration program must meet all Conditions of Participation (CoP) for skilled nursing facilities (SNFs) as defined under Title XVIII of the Federal Social Security Act (Medicare). In order to qualify for Medicare certification, providers must comply with Part 415 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR). In this demonstration, providers not currently licensed to operate nursing home beds will not be required to obtain Public Health and Health Planning Council establishment approval. Additionally, TCU units are not recognized as RHCF beds as defined in 10 NYCRR Section 709.3.

As part of this demonstration program, specific State SNF regulations that may impede the development of TCUs or their ability to provide appropriate services to patients may be subject to waiver, at the discretion of the Department. Such issues will be reviewed on an individual basis.

Applicants must demonstrate the need for any services proposed within the TCU and emphasize the benefits of such a program to a specific community, including, but not limited to, addressing the absence of sufficient post-discharge services in nursing homes and community-based care.

Transitional care units should be limited in length of stay and designed to meet and resolve specific sub-acute medical care needs. The average length of stay for patients served in a TCU ranges from 5 to 21 days, following a qualifying acute care stay. TCU services will be reimbursed at the applicable Medicare per diem SNF rate.

Transitional Care Unit Criteria and Requirements

Section 2802-a requires all providers applying to participate in this demonstration program to meet all applicable requirements as defined under Title XVIII of the Federal Social Security Act (Medicare). Additionally, Transitional Care Units must:

- Have a length of stay of not less than 5 days and not in excess of 21 days;
- Have a pre-opening survey, separate Medicare Number, and SNF certification;
- Be staffed by qualified staff dedicated to the TCU;
- Serve patients who will benefit from active rehabilitation. (It is expected that patients will actively participate in three hours or more of Occupational Therapy/Physical Therapy/Speech Therapy, every day, either three hours consecutively or in combination between rehabilitative sessions); and

- Collect information and submit reports to the Department on an annual basis to demonstrate an overall decrease in length of stay; quantify the clinical benefits of the program for TCU residents and illustrate a synergistic relationship with long term care providers.

Applications must address the configuration of the Transitional Care Unit. However, the applicant must adhere to the following requirements:

- Beds must be located at one geographic location; and
- Beds must be located contiguously within a distinct unit/space within the hospital.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The TCU will focus on patients that if not discharged to the TCU would otherwise, continue to be served in a Med/Surg bed. These patients will remain in the TCU for a short stay of not less than 5 and no more than 20 days.

Anticipated TCU admissions include post acute with diagnoses such as congestive heart failure, chronic obstructive pulmonary disease, renal failure, diabetes and septicemia.

The TCU staffing will include a Licensed Nursing Home Administrator who will be employed part-time as the TCU Administrator, a Nurse Manager with hospital experience, and a part-time Physician Medical Director. The team will also include an MDS Coordinator, Register Nurses, a Social Worker, Activities and Therapy staff, and Registered Dietician.

The applicant has a letter of support and collaboration from two local RHCs, Waterview Hills Rehabilitation & Healthcare and Salem Hills Rehabilitation & Healthcare.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Costs

Total project costs for renovations and the acquisition of movable equipment is estimated at \$638,080, itemized as follows:

Renovation & Demolition	\$ 370,800
Design Contingency	37,080
Construction Contingency	37,080
Planning Consultant Fees	10,300
Architect/Engineering Fees	41,200
Construction Manager Fees	20,600
Movable Equipment	115,541
Application Fee	2,000
Additional Processing Fee	<u>3,479</u>
Total Project Cost	<u>\$638,080</u>

Project costs are based on a October 1, 2011 construction start date, and a two month construction period. Northern Westchester Hospital will finance total project costs through accumulated funds.

The applicant has submitted an incremental operating budget in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One and Year Three</u>
Revenues:	\$1,706,019
Expenses:	
Operating	\$370,715
Depreciation and Rent	<u>37,071</u>
Total Expenses	\$407,786
 Net Income	 <u>\$1,298,233</u>
 Utilization: Patient Days	 3,532

Utilization for the first and third years is 100% Medicare.

Expense and utilization assumptions are based on the historical experience of Northern Westchester Hospital inpatients.

Capability and Feasibility

Project cost will be satisfied by accumulated funds from Northern Westchester Hospital.

Presented as BFA Attachment A, is the financial summary of the Hospital showing sufficient funds.

Working capital of \$67,964, based on two months of third year expenses, will come from hospital operations.

The submitted incremental budget indicates a net income of \$1,298,233 during the first and third years of operation. The Medicare revenues were based on a blend of 50 DRGs associated with NWH medically complex patients, and excess days these patients spent in the Hospital. The budget appears reasonable. Northern Westchester Hospital maintained a positive net asset position and net income from operations, and experienced negative working capital in 2008 and 2009, which was due to management's decision to minimize long-term debt while reinvesting in capital and equipment over the last six years, and a 2009 DASNY bond issuance of \$17,000,000.

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

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

The proposed project is for the renovation of a portion of an existing nursing unit to provide a 6,192 SF TCU suite comprising 12 single bed patient rooms, including 2 isolation rooms, plus contiguous support spaces. Support spaces will include a 178 SF OT room with toilet/shower room, and a 166 SF PT room, also with a toilet/shower room and a 387 SF patient dining room with nourishment station. Staff areas will include an 83 SF nurses station with dictation counter, 81 SF medication room with Pyxis, crash cart, and sink, 231 SF clean supply room and a 156 SF doctors office. Also, a 123 SF soils work room, a 200 SF nurses lounge with lockers, and a supervisors office are located adjacent to the TCU area, but are accessible from the adjacent nursing unit. A single handicap accessible toilet, a staff toilet and janitors closet are provided on the proposed TCU suite corridor.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

- BFA Attachment A Financial Summary of Northern Westchester Hospital - 2008 and 2009
- BFA Attachment B Financial Summary of Northern Westchester Hospital -2010 internals



Public Health and Health Planning Council

Project # 102374-T White Plains Hospital Center

County: Westchester (White Plains)
Purpose: Demonstration

Program: Transitional Care Unit
Submitted: November 18, 2010

Executive Summary

Description

White Plains Hospital Center (WPHC), a 292-bed not-for-profit hospital located in White Plains, requests approval to create a 12-bed Transitional Care Unit (TCU) to bridge the gap between the Hospital's acute-care setting and post-acute care to ensure a smooth transition for care continuum. On September 1, 2010, the Department of Health requested applications in accordance with the provisions of Section 2802-a of the Public Health Law for a TCU Demonstration Program.

The TCU will be designed to achieve the following objectives:

- Improve clinical outcomes for medically complex patients by providing 24-hour skilled nursing and rehabilitative care prior to long-term care or discharge home.
- Assist patients to fully recover before discharge.
- Reduce overall patient length of stay.
- Prevent readmissions.
- Educate and prepare family members to care for these patients at home.

The TCU program will provide access to rehabilitation therapies, wound care, intravenous antibiotics, dialysis and specialized treatments as necessary, which in turn will reduce the Hospital's overall medical surgical length of stay per TCU eligible patient. The TCU unit will be located and self-contained on the fourth floor of the Hospital.

In 1996, Healthstar Network, Inc., d/b/a Stellaris Health Network, became the active parent and co-established operator of Northern Westchester Hospital. Stellaris Health Network, a not-for-profit corporation, is the sole member and supporter of Northern Westchester Hospital, WPHC, Lawrence Hospital Center and Phelps Memorial Hospital Association. The purpose of Stellaris is to preserve a strong community-based healthcare system in Westchester and Putnam counties.

Total project costs are estimated at \$401,687.

DOH Recommendation
Contingent approval.

Need Summary

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010, authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis.

Program Summary

The principal elements of the proposed TCU program are:

- 12-bed unit on the I-Wing, Fourth Floor
- Single and Double-bedded Rooms

Financial Summary

Project costs will be met with accumulated funds from White Plains Hospital Center.

Incremental Budget:	<i>Revenues:</i>	\$ 2,041,000
	<i>Expenses:</i>	<u>988,550</u>
	<i>Gain/(Loss):</i>	\$ 1,052,450

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project involves the renovation of 5,900 SF of the fourth floor of the Hospital for a 12-bed transitional care unit.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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]

Council Action Date

June 16, 2011.

Need Analysis

Background

Section 2802-a of the Public Health Law was amended by Chapter 58 of 2010 authorizing the Commissioner to approve an additional 13 general hospitals to operate transitional care units (TCUs) on a demonstration basis. The original TCU enabling legislation of 2005 authorized five demonstration projects.

Transitional Care Unit Purpose

Section 2802-a of PHL defines "transitional care" as sub-acute care services provided to inpatients of a general hospital who no longer require acute care inpatient services, but continue to need specialized medical, nursing and other hospital ancillary services and are not yet ready for discharge. TCUs should be limited in length of stay and designed to meet and resolve patients' specific sub-acute medical care needs. Discharges from these units are to be timely and appropriate.

The improvement of quality outcomes for the TCU population through the provision of appropriate services, delivered in the most efficient manner, is the primary goal of the TCU demonstration program. Hospitals selected for this program are required to demonstrate an overall decrease in length of stay, quantify the clinical benefits of the program for TCU patients, and illustrate a synergistic relationship with long term care providers in the community. Collaboration between hospitals and nursing homes in local service areas will help bring about more efficient allocation of patients between the two settings.

In accordance with Section 2802-a of PHL, all providers in this demonstration program must meet all Conditions of Participation (CoP) for skilled nursing facilities (SNFs) as defined under Title XVIII of the Federal Social Security Act (Medicare). In order to qualify for Medicare certification, providers must comply with Part 415 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR). In this demonstration, providers not currently licensed to operate nursing home beds will not be required to obtain Public Health and Health Planning Council establishment approval. Additionally, TCU units are not recognized as RHCF beds as defined in 10 NYCRR Section 709.3.

As part of this demonstration program, specific State SNF regulations that may impede the development of TCUs or their ability to provide appropriate services to patients may be subject to waiver, at the discretion of the Department. Such issues will be reviewed on an individual basis.

Applicants must demonstrate the need for any services proposed within the TCU and emphasize the benefits of such a program to a specific community, including, but not limited to, addressing the absence of sufficient post-discharge services in nursing homes and community-based care.

Transitional care units should be limited in length of stay and designed to meet and resolve specific sub-acute medical care needs. The average length of stay for patients served in a TCU ranges from 5 to 21 days, following a qualifying acute care stay. TCU services will be reimbursed at the applicable Medicare per diem SNF rate.

Transitional Care Unit Criteria and Requirements

Section 2802-a requires all providers applying to participate in this demonstration program to meet all applicable requirements as defined under Title XVIII of the Federal Social Security Act (Medicare). Additionally, Transitional Care Units must:

- Have a length of stay of not less than 5 days and not in excess of 21 days;
- Have a pre-opening survey, separate Medicare Number, and SNF certification;
- Be staffed by qualified staff dedicated to the TCU;
- Serve patients who will benefit from active rehabilitation. (It is expected that patients will actively participate in three hours or more of Occupational Therapy/Physical Therapy/Speech Therapy, every day, either three hours consecutively or in combination between rehabilitative sessions); and

- Collect information and submit reports to the Department on an annual basis to demonstrate an overall decrease in length of stay; quantify the clinical benefits of the program for TCU residents and illustrate a synergistic relationship with long term care providers.

Applications must address the configuration of the Transitional Care Unit. However, the applicant must adhere to the following requirements:

- Beds must be located at one geographic location; and
- Beds must be located contiguously within a distinct unit/space within the hospital.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The TCU will focus on patients that if not discharged to the TCU would, otherwise, continue to be served in a Med/Surg bed. These patients will remain in the TCU for a short stay (e.g., TCU Demo criteria call for stays of 5 to 20 days, averaging 8 to 12 days). The applicant projects an average length of stay of 11.5 days.

The TCU will serve the most complex and costly home-bound convalescing patient who otherwise would continue to occupy a medical/surgical bed. These patients require additional physical or occupational therapy, IV or pharmacological therapy or other non-acute services.

TCU staff will include Registered and Licensed Practical Nurses, including an MDS Coordinator, Certified Nurse Aides, Physical/Occupational/Speech Therapists, an Activities Director and Social Workers. In addition, the applicant indicates management staff and physician coverage.

The applicant is an affiliate of the Stellaris Health Network, which includes Lawrence Hospital Center, Phelps Memorial Hospital Association and Northern Westchester Hospital Association. Letters of support have also been submitted by the Visiting Nurse Service of New York, and Fountain Square Properties, LLC and the Kensington of White Plains, an Assisted Living Residence.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Costs

Total project costs for renovations and the acquisition of movable equipment is estimated at \$401,687, broken down as follows:

Renovation & Demolition	\$ 206,000
Design Contingency	20,000
Construction Contingency	20,000
Architect/Engineering Fees	35,000
Construction Manager Fees	18,000
Other Fees (Consultant)	5,000
Movable Equipment	85,000
Telecommunication	8,500
Application Fee	2,000
Additional Processing Fee	<u>2,187</u>
Total Project Cost	<u>\$401,687</u>

White Plains Hospital Center will finance total project costs through accumulated funds.

The applicant has submitted an incremental operating budget in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$1,924,000	\$2,041,000
Expenses:		
Operating	\$909,000	\$964,000
Depreciation and Rent	<u>24,550</u>	<u>24,550</u>
Total Expenses	\$933,550	\$988,550
 Net Income	 <u>\$990,450</u>	 <u>\$1,052,450</u>
 Utilization: Patient Days	 4,015	 4,015

Utilization for the first and third years is as follows:

Commercial Fee-For-Service	2.9%
Medicare Fee-For-Service	89.7%
Medicare Managed Care	7.4%

Expense and utilization assumptions are based on the historical experience of White Plains Hospital Center inpatients.

Capability and Feasibility

Project cost will be satisfied by accumulated funds from White Plains Hospital Center. Presented as BFA Attachment A is the financial summary of the Hospital showing sufficient funds.

Working capital of \$164,758 based on two months of third year expenses will come from hospital operations.

The submitted incremental budget indicates a net income of \$990,450 and \$1,052,450 during the first and third years of operation, respectively. The budget appears reasonable. White Plains Hospital Center maintained a positive working capital and net asset position and experienced net losses from operations of \$817,238 and \$2,241,038 in 2009 and 2008, respectively. White Plains Hospital Center maintained a positive working capital, net asset position and a net income from operations of \$1,020,931 in 2010. Presented as BFA Attachment B are the internal financial summaries from White Plains Hospital Center. The Hospital was able to maintain positive net income in 2010 due to the following initiatives:

- Efforts to improve revenue through managed care contracting rates.
- Increase productivity and strategies in critical service areas.
- Overtime pre-approval authorization only for necessary operational needs.
- Freeze on benefit plan and initiation of a less costly defined contribution pension plan.
- Reduction in length of stay.
- The addition of a new Cardiac Catheterization Lab, which started in 2008 and became fully operational by early 2010.
- Expansion of outpatient reference laboratory services.

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

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

This project will consist of 5,900 SF of renovation of the fourth floor of the Hospital and will include 12 transitional care beds, 4 private patient beds and 8 semi-private patient beds. Also included are a patient lounge with pantry, physical and occupational therapy room, assisted bathing room, nurse station, medication room, clean and soiled utility rooms, a clean linen room, an administrative office and a staff toilet room.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary of White Plains Hospital Center - 2008 and 2009
BFA Attachment B	Financial Summary of White Plains Hospital Center - 2010 internals

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Long Term Home Health Care Program - Construction

Exhibit #8

Number

Applicant/Facility

- | | |
|-------------|---|
| 1. 111177 C | Village Center for Care
(Bronx County) |
|-------------|---|



Public Health and Health Planning Council

Project # 111177-C

Village Center for Care

County: Bronx (Bronx)
Purpose: Construction

Program: Long Term Home Health Care
Submitted: January 10, 2011

Executive Summary

Description

Village Center for Care, a 200-bed not-for-profit residential health care facility (RHCF) located in Bronx County, requests approval for transfer of 50 long term home health care program (LTHHCP) slots from Daughters of Jacob Nursing Home Company, Inc., to Village Center for Care. Village Center for Care currently operates a LTHHCP under Article 36 of the Public Health Law. After the transfer, the applicant will have 100 LTHHCP slots in Bronx County.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project involves no construction; therefore, no Architectural recommendation is required.

DOH Recommendation
Contingent approval.

Need Summary

As this application involves the transfer of LTHHCP slots and no change in the number of LTHHCP slots in Bronx County, there is no impact from a Need perspective.

Program Summary

The LTHHCP will continue to provide the thirteen required LTHHCP services: audiology, home health aide, homemaker, housekeeper, medical social services, medical supply, equipment and appliances, nursing, nutritional, occupational therapy, personal care, physical therapy, respiratory therapy, and speech pathology.

Financial Summary

The total purchase price of \$500,000 will be met via accumulated funds of Village Center for Care.

Incremental Budget:	<i>Revenues:</i>	\$ 2,400,962
	<i>Expenses:</i>	<u>2,346,014</u>
	<i>Gain/(Loss):</i>	\$ 54,948

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of thirty hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission, approval and completion of a closure plan by Daughters of Jacob Nursing Home Company for their LTHHCP. [LTC]

Approval conditional upon:

1. Approval is conditioned on Village Center for Care achieving an occupancy rate of 85% for the 100 slots in Bronx County within one year of the final approval of this acquisition and maintaining an 85% occupancy rate in Bronx County. If Village Center for Care fails to maintain at least an 85% occupancy rate in Bronx County, as reported in the annual census reports, the LTHHCP slots in Bronx County will be permanently decertified to a level that will achieve an 85% occupancy rate. [LTC]

Council Action Date

June 16, 2011.

Programmatic Analysis

Village Center for Care dba VillageCare Long Term Home Health Care Program currently operates a 225 slot LTHHCP program that serves Bronx County (50 slots), Kings County (50 slots) and New York County (125 slots) from an office located at 112 Charles Street, 2nd Floor, New York, New York 10014. Daughters of Jacob Nursing Home Company currently operates a 50 slot LTHHCP with approval to serve Bronx County. Upon completion of this transaction, Daughters of Jacob Nursing Home Company will cease to operate a LTHHCP, and Village Center for Care will have approval for a 275 slot LTHHCP, with 100 slots in Bronx County.

The LTHHCP will continue to provide the thirteen required LTHHCP services: audiology, home health aide, homemaker, housekeeper, medical social services, medical supply, equipment and appliances, nursing, nutritional, occupational therapy, personal care, physical therapy, respiratory therapy, and speech pathology.

Village Center for Care is currently in compliance with all applicable codes, rules and regulations.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Purchase Agreement

The applicant has submitted a draft letter of intent for the 50 slots, the terms of which are summarized below:

<i>Date:</i>	December 23, 2010
<i>Seller:</i>	Daughters of Jacob Nursing Home Company, Inc.
<i>Buyer:</i>	Village Center for Care
<i>Assets Transferred:</i>	The Asset Purchase Agreement would provide that the Purchaser would require certain assets of the Business comprised of fifty (50) long term home health care program slots.
<i>Excluded Assets:</i>	Accounts Receivable, prepaid expenses and cash, all of the forgoing as of or relating to periods prior to the Closing and all other assets of Daughters of Jacob owned by Daughters of Jacob, including those other assets used exclusively in the Business including, but not limited to all books and records, patient information, client lists, patient records, goodwill, and intangibles used in the operation of the Business.
<i>Assumed Liabilities:</i>	None
<i>Purchase Price:</i>	\$500,000
<i>Payment of Purchase Price:</i>	\$500,000 at the Closing

Operating Budget

The applicant has submitted an incremental operating budget, in 2011 dollars, for the first and third years subsequent to the change in operator, summarized as follows:

Year One

Revenues	\$ 1,439,603
Expenses	<u>1,556,713</u>
Excess of Revenues	(\$117,110)

Expenses are itemized by Category of Service.

	<u>Total Cost</u>	<u>Visit/Hours</u>	<u>Cost Per Visit/Hour</u>
Nursing	\$197,112	1,964	\$100.36
Physical Therapy	13,492	128	\$105.40
Social Services	9,043	86	105.15
*Personal Care	1,335,004	79,155	\$16.87
Nutrition	2,062	20	\$103.10
Total	\$1,556,713		
<i>*Hours</i>			

Utilization by payor source for the LTHHCP for the first year subsequent to the change in operator is as follows:

Medicaid Fee-For-Service 100%

Year Three

Revenues:	\$ 2,400,962
Expenses:	<u>2,346,014</u>
Excess Revenues:	\$ 54,948

Expenses are itemized by Category of Service

	<u>Total Cost</u>	<u>Visit/Hours</u>	<u>Cost Per Visit/Hour</u>
Nursing	\$223,507	3,073	\$72.73
Physical Therapy	20,054	200	\$100.27
Social Services	13,441	134	\$100.30
Personal Care	2,085,947	123,894	\$16.83
Nutrition	<u>3,065</u>	31	\$98.87
Total	\$2,346,014		
<i>*Hours</i>			

Utilization by payor source during the third year is as follows:

Medicaid Fee-For-Service 100%

Expense and utilization assumptions are based on the historical experience of Village Center for Care.

Capability and Feasibility

The applicant will provide \$500,000 in equity from accumulated funds to purchase the 50 slots.

Working capital requirements are estimated at \$391,000, which appears reasonable based on two months of third year expenses subsequent to the change in operator. The applicant will provide equity via operations to meet the working capital requirement. Presented as BFA Attachment A are the 2008 and 2009 certified financial statements of Village Center for Care, which indicates the availability of sufficient funds for the working capital contribution.

The submitted incremental budget indicates a loss in year one of \$117,110 and an excess \$54,948 during the third year subsequent to the change in operator. The first year loss will be offset from the applicant's operations. Revenues are based on current reimbursement rates for LTHHCP services.

As shown on BFA Attachment A, the applicant had an average positive working capital position and an average positive net asset position during the period shown. Also, the applicant achieved an average operating income of \$1,362,400 from 2008 through 2009. The applicant incurred an operating loss of \$1,075,612 during 2008. The applicant has indicated that the reason for the losses was that the applicant was in the process of transitioning its

workforce to the SEIU National Benefit fund, in accordance with its agreement with the Union, which resulted in a multimillion dollar withdrawal liability for the 1199 Plan during 2008 and 2009.

Presented as BFA Attachment B are the December 31, 2010 internal financial statements of Village Center for Care. As shown on Attachment B, the applicant had a negative working capital position and a positive net asset position through December 31, 2010. Also, the entity achieved an operating excess of revenues of \$96,026 through December 31, 2010.

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

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	2008 and 2009 Certified Financial Statements of Village Center for Care
BFA Attachment B	The December 31, 2010 Internal Financial Statements of Village Center for Care

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Acute Care Services – Establish/Construct

Exhibit #9

	<u>Number</u>	<u>Applicant/Facility</u>
1.	101153 E	New Island Hospital (Nassau County)
2.	102453 E	North Shore Long Island Jewish Health Care, Inc. (Nassau County)
3.	111074 E	Arnot Health, Inc. (Chemung County)



Public Health and Health Planning Council

Project # 101153-E

New Island Hospital

County: Nassau (Bethpage)
Purpose: Establishment

Program: Acute Care Services
Submitted: June 21, 2010

Executive Summary

Description

This application proposes to establish Catholic Health System of Long Island, Inc., d/b/a Catholic Health Services of Long Island (CHS) as the active parent, co-operator of WSNCHS North, Inc., d/b/a New Island Hospital. New Island Hospital (NIH) is a 203-bed acute care hospital located at 4295 Hempstead Turnpike, Bethpage.

Recently, NIH changed its assumed name to St. Joseph's Hospital. CHS, is a not-for-profit corporation, which became the sole corporate member and passive parent of NIH in January 2010. Approval of this application will strengthen its affiliation.

Until CHS's recent affiliation with NIH, CHS was comprised of five hospitals, three nursing homes, a regional home care and hospice network, a community-based agency for persons with special needs and other related organizations. More than 15,000 employees and 3,300 credentialed physicians work within the CHS and this affiliated organizations.

DOH Recommendation
Contingent approval.

Need Summary

CHS became the sole corporate member and passive parent of NIH in January of 2010. CHS is organized as the coordinating body of an integrated network of healthcare providers serving the residents of Nassau and Suffolk counties.

This application is the next step in the process to strengthen the affiliation between CHS and NIH. As an active-parent, CHS will have the ability to exercise active powers over New Island Hospital and gain a

broader oversight of the facility's day-to-day operations, with the end goal of improving patient care. NIH will be strengthened by the relationship and enhance its ability to:

- Recruit/maintain medical staff;
- Develop and improve clinical programs;
- Develop a financial plan to address short-term cash needs, grants, debt restructuring, revenue cycle issues, cost reduction and physician participation and support; and
- Preserve the hospital as a viable institution and ultimately, enhance the quality and availability of hospital services on Long Island.

Program Summary

The hospital will operate under the assumed name of St. Joseph's Hospital. There will be no changes to staffing or services concurrent with approval of this application.

Based on the information reviewed, staff have concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law Section 2810(a)(3) and 10 NYCRR 600.2 during the past 10 years.

Financial Summary

There are no project costs associated with this application. It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project is for Establishment action only, therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of photocopies of the applicant's Certificate of Incorporation and any restatements thereof or amendments thereto, which must be acceptable to the Department. [CSL]
2. Submission of photocopies of the applicant's Bylaws, and any restatements thereof or amendments thereto, which must be acceptable to the Department. [CSL]
3. Submission of a photocopy of fully executed and dated proposed amendment to the Certificate of Incorporation of Catholic Health System of Long Island, Inc. (CHS), which must be acceptable to the Department. [CSL]
4. Submission of a photocopy of a fully executed and dated proposed amendment to the Bylaws of CHS, which must be acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

New Island Hospital's assumed name was recently changed to St. Joseph Hospital (SJH), to reflect the new relationship with Catholic Health System of Long Island, Inc., d/b/a Catholic Health Services of Long Island (CHS) and consistent with CHS's policy of having religious names for its hospitals and nursing homes. When this CON is completed, the beds and services will remain the same. For the rest of this report, the facility will be referenced using its original name, "New Island Hospital".

<i>Bed Category</i>	<i>Certified Capacity</i>
Medical / Surgical	155
Coronary Care	20
Intensive Care	8
Pediatric	20
Total	203

Ambulatory Surgery - Multi Specialty	Clinical Laboratory Service
Coronary Care	CT Scanner
Emergency Department	Health Fairs O/P
Intensive Care	Lithotripsy
Magnetic Resonance Imaging	Medical Social Services
Medical/Surgical	Nuclear Medicine - Diagnostic
Nuclear Medicine – Therapeutic	Outpatient Surgery
Pediatric	Pharmaceutical Service
Primary Medical Care O/P	Radiology - Diagnostic
Radiology-Therapeutic	Renal Dialysis - Acute
Therapy - Physical O/P	

New York State Designations:

New Island Hospital

- Stroke Center

Analysis

Catholic Health System of Long Island, Inc. (CHS) indicates that the approval of this project will strengthen the facility in the following areas:

- Recruiting, maintaining and interacting with medical staff, employees and officers;
- Assisting the Hospital in developing and improving clinical programs, with the broader goal of promoting quality care;
- Assisting the Hospital in developing a financial plan to address short-term cash needs, grants, debt restructuring, revenue cycle issues, cost reduction and physician participation and support; and
- Helping to preserve the Hospital as viable institution and ultimately, enhancing the quality and availability of hospital services on Long Island.

Approval of this application will give CHS the ability to exercise active powers over New Island Hospital and gain a broader oversight of the facility's day-to-day operations, with the goal of improving patient care.

New Island Hospital will remain a separate not-for-profit corporation licensed under Article 28 of the New York Public Health Law. Upon completion of this project, NIH will maintain a separate operating certificate and tax identification number. There will be no change in NIH's authorized services or types of beds as a result of the proposed change in governance structure.

Inpatient Statistics

Displayed in Table 3 below are New Island Hospital inpatient discharges and occupancy rates. As shown below, the majority of the facility's inpatients were in the medical/surgical category. Over the last 3 years, the total inpatient discharges at NIH ranged from 7,278 to 8,196. The overall occupancy rates during the interval ranged from 50.0% to 60.0%.

Table 3: Inpatient Utilization by Major Service Category: 2007 – 2009*				
<u>Service Category</u>	<u>2007</u>	<u>2008</u>	<u>2009*</u>	<u>Current Beds</u>
<i>Discharges</i>				
Medical/Surgical	8,117	7,803	7,206	
Pediatric	7	5	0	
Obstetric	15	12	10	
General Psychiatric	24	23	30	
Chemical Dependency	33	44	32	
High Risk Neonates	0	0	0	
<i>Total</i>	<i>8,196</i>	<i>7,887</i>	<i>7,278</i>	
<i>Occupancy Based on Current Beds</i>				
Medical/Surgical	66.1	60.7	54.9	183
Pediatric	0.0	0.0	0.0	20
Obstetric	0.0	0.0	0.0	0
General Psychiatric	0.0	0.0	0.0	0
Chemical Dependency	0.0	0.0	0.0	0
High Risk Neonates	0.0	0.0	0.0	0
<i>Total</i>	<i>60.0</i>	<i>55.2</i>	<i>50.0</i>	<i>203</i>

Source: SPARCS

* Reporting for 2009 is incomplete.

Emergency Department and Ambulatory Surgery

New Island Hospital's Emergency Department (ED), as well as its Ambulatory Surgery program, are well utilized. Over the last 3 years, the facility recorded more than 36,000 ED visits; of these, approximately 21.0% resulted in an inpatient admission.

In 2006, NIH recorded 6,770 Ambulatory Surgery procedures; by 2007, these procedures decreased by almost 500, procedures to 6,288. In 2008, the facility's amb/surg procedures stood at 6,200 (Table 4).

Table 4: Emergency Department and Ambulatory Surgery Utilization: 2006 – 2008			
<u>Year</u>	<u>Total Emergency Department Visits</u>	<u>% of Emergency Department Visits Resulting in Inpatient Admission</u>	<u>Amb/Surg Procedures</u>
2006	36,623	21.9	6,790
2007	36,208	20.7	6,288
2008	36,123	20.6	6,204

Source: Institutional Cost Reports

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Compliance with Applicable Codes, Rules and Regulations

The applicant has attested to compliance with the following: the governing body and medical staff will develop, maintain, and periodically review a list of policies and procedures that will ensure that services performed at the facility will conform with generally accepted standards of practice. The Center's admissions policy will include anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, and source of payment. All services will be performed in compliance with all applicable federal and state rules, including standards for credentialing, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

Characteristics of the governing body reflect responsiveness to community need in the use of a patient satisfaction measurement tool that will provide continuous, ongoing feedback to the organization for the quality improvement program and planning discussions.

Character and Competence

Board of Directors and Officers

James Harden *Ex-Officio*
Richard Sullivan *Chairperson*

Lionel Barrau, M.D.
Msgr. Robert Brennan
Sister Elaine Callahan, O.P.
Thomas Christman
Thomas Dowling, M.D.
Sister Audrey Harsen, O.P.
Sister Margaret John Kelly, D.C.
Richard Meyer
Eugene Murphy
Patricia Nazemetz
Joseph Tantillo
Rev. Msgr. James Vlaun

Staff from the Division of Certification and Surveillance reviewed the disclosure information submitted by the individuals 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 and relatives' ownership interest in other health care facilities. In addition, the following offices or agencies were consulted as appropriate regarding the above licensed individuals: the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office Professional Medical Conduct, and the Education Department. No issues were indicated.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law Section 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which 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

Background

CHS is organized as the coordinating body of an integrated network of healthcare providers serving Nassau and Suffolk Counties. The CHS system offers a comprehensive range of services, including inpatient, outpatient, rehabilitation, long-term care, home health, pharmacy and durable medical equipment. The CHS system is comprised of numerous separate entities, including five general hospitals, three nursing homes, a certified home health agency, a hospice, a long term home health care program, and a pharmacy. CHS is sponsored by the Roman Catholic Diocese of Rockville Centre.

Presented as BFA Attachment E, is an organizational chart for Catholic Health Services of Long Island – post-approval.

There are no costs associated with this application.

Description of Active Parent Members:

<u>Facility</u>	<u>Location</u>	<u>Bed Type</u>	<u>Capacity</u>
Good Samaritan Hospital Medical Center	West Islip	Acute care	437
St. Francis Hospital	Roslyn	Acute Care	364
Mercy Medical Center	Rockville Centre	Acute Care	375
St. Charles Hospital	Port Jefferson	Acute Care	231
St. Catherine of Siena Medical Center	Smithtown	Acute Care	318
Our Lady of Consolation Geriatric Care Center	West Islip	RHCF	450
Good Samaritan Nursing Home	Sayville	RHCF	100
St. Catherine of Siena Nursing Home	Smithtown	RHCF	240
Catholic Home Care	Holtsville	CHHA	n/a
Good Shepherd Hospice	Port Jefferson	Hospice	16
Good Samaritan Hospital, Inc	Bay Shore	LTHHCP	99

Approval of this project will strengthen the hospital in the following areas:

- Assisting the hospital in developing and improving clinical programs with the broader goal of promoting the quality of care;
- Recruiting, maintaining and interacting with medical staff, employees and officers;
- Assisting the hospital in developing a financial plan to address short-term cash needs, grants, debt restructuring, revenue cycle issues, cost reduction and physician participation and support;
- Helping to preserve the hospital as a viable institution and, ultimately, enhancing the quality and availability of hospital services on Long Island.

Approval of this application will give CHS the ability to exercise active powers over NIH and to gain greater oversight of the hospital's operations. Active powers include:

- Appoint or dismiss hospital management-level employees and medical staff, except the election or removal of corporate officers;
- Approve the hospital operating and capital budgets;
- Adoption or approval of hospital operating policies and procedures;
- Approval of Certificate of Need applications filed on behalf of hospital;
- Approval of hospital debt
- Approval of hospital contracts for management or for clinical services;
- Approval of settlements of administrative proceedings or litigation which do not exceed insurance or self-insurance funds.

Capability and Feasibility

There are no significant issues of capability or feasibility associated with this application. There are no costs associated with the subject application. NIH and the other member institutions of CHS will remain separate not-for-profit corporations, and maintain separate operating certificates. There will be no change in authorized services or number or type of bed complement at NIH as a result of the proposed establishment. There will be no financial consideration involved and no proposed changes to the operations of existing programs at NIH.

Review of the 2008 and 2009 audited financial statements for New Island Hospital, presented as BFA Attachment A, indicates the hospital has maintained positive average net asset of \$17,119,739, average negative working capital positions of \$2,964,984 and generated net operating income averaging \$640,323 during the period. Attachment B, the November 30, 2010 internal financial statement shows a negative working capital position of \$959,000, positive net assets of \$15,820,000 and net operating income of \$1,188,000.

Review of the 2008 and 2009 audited financial statements for the Catholic Health System of Long Island, presented as BFA Attachment C, indicates that CHS has maintained average positive working capital of \$231,499,000, average net asset positions of \$630,198,000, and generated net income from operations averaging \$59,196,000 during the period. Attachment D, the November 30, 2010 internal financial statements indicates positive working capital position of \$331,490,000, positive net assets of \$802,390,000 and net operating income of \$49,899,000.

Therefore, based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Financial Summary, New Island Hospital audited 2008 and 2009
BFA Attachment B	Financial Summary, New Island Hospital internal November 30, 2010
BFA Attachment C	Financial Summary, Catholic Health System of Long Island ,Inc. audited 2008 and 2009
BFA Attachment D	Financial Summary, Catholic Health System of Long Island ,Inc internal November 30, 2010
BFA Attachment E	Organizational Chart of Catholic Health System of Long Island, Inc. - Post Approval
BHFP Attachment	Map



Public Health and Health Planning Council

Project # 102453-E
North Shore-Long Island Jewish Health Care, Inc.

County: Nassau (Great Neck)
Purpose: Establishment

Program: Acute Care Services
Submitted: December 10, 2010

Executive Summary

Description

North Shore-Long Island Jewish Health System, Inc. (System) is the sole corporate member of Staten Island University Hospital (including North and South Campuses) and North Shore-Long Island Jewish Health Care, Inc (HCI). The System seeks CON approval to transfer its membership interests in Staten Island Hospitals North and South to HCI.

Additionally, HCI will be established as the active parent, co-operator of the following facilities – Franklin Hospital, including the Orzac Center for Extended Care and Rehabilitation, Franklin Hospital Certified Home Health Agency (CHHA) and Long-Term Home Health Care Program (LTHHCP), Southside Hospital, Huntington Hospital, Lenox Hill Hospital, and Staten Island University Hospital (including North and South campuses). The resulting entity will be one obligated group for all members of HCI, including HCI, under the name North Shore-Long Island Jewish Obligated Group (NS-LIJ Obligated Group).

Currently, the NS-LIJ Obligated Group consists of North Shore University Hospital including Syosset Hospital, North Shore University Hospital Stern Center for Extended Care and Rehabilitation, North Shore CHHA, Forest Hills Hospital, Glen Cove Hospital, Plainview Hospital, Long Island Jewish Medical Center, including Cohen Children’s Medical Center, Long Island Jewish CHHA, and The Zucker Hillside. It should be noted that the Hospice Care Network will not be part of the Obligated Group.

DOH Recommendation
Contingent approval.

Need Summary

By adding all the facilities to the NS-LIJ Obligated Group, HCI will be able to respond more efficiently to the needs of the communities they serve. HCI will also have the ability to share or redistribute assets more easily. The NS-LIJ Obligated Group will delegate to HCI, as the active parent, movement of beds among its members.

Program Summary

HCI, as the active parent, will obtain decision making authority over the member hospitals, including the movement of beds among the hospitals. This application does not propose any changes to staffing levels or the scope and nature of services currently being offered.

Financial Summary

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

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural review is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The applicant obtaining consents from all necessary lenders, insurers and trustees, for the proposed transactions. [BFA]
2. Submission of a photocopy of a fully executed and dated Membership Transfer Agreement between North Shore Long Island Jewish Health Care, Inc. (HCI) and North Shore-Long Island Jewish Health System, Inc. (System) pursuant to which membership in Staten Island University Hospital (SIUH) is transferred from System to HCI, which must be acceptable to the Department. [CSL]
3. Submission of a photocopy of a fully executed and dated Certificate of Amendment to the Certificate of Incorporation of HCI establishing it as the sole active parent, with specifically-enumerated active powers of SIUH, Franklin Hospital (Franklin), Orzac Center for Extended Care and Rehabilitation (Orzac), Southside Hospital (Southside), Huntington Hospital (Huntington) and Lenox Hill Hospital (Lenox Hill), which must be acceptable to the Department. [CSL]
4. Submission of photocopies of fully executed and dated Resolutions of the Board of Directors or Written Consents of Members to Action without a Meeting for the undertakings of this CON application for SIUH, Franklin, Orzac, Southside, Huntington, Lenox Hill, which must be acceptable to the Department. [CSL]
5. Submission of photocopies of fully executed and dated Certificates of Amendment to the Certificates of Incorporation of SIUH, Franklin, Orzac, Southside, Huntington and Lenox Hill pursuant to which each corporation delegates specifically-enumerated active powers to HCI and agrees to become a member of the North Shore-Long Island Jewish Obligated Group (NSLIJOG), which must be acceptable to the Department. [CSL]
6. Submission of photocopies of approved and dated by-laws of SIUH, Franklin, Orzac, Southside, Huntington and Lenox Hill pursuant to which each corporation delegates specifically-enumerated active powers to HCI and agrees to become a member of the NSLIJOG, which must be acceptable to the Department. [CSL]
7. Submission of photocopies of any and all fully executed and dated documentation in order for SIUH, Franklin, Orzac, Southside, Huntington and Lenox Hill to become members of the NSLIJOG and accept responsibilities and liabilities as such, which must be acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Project Description

North Shore-Long Island Jewish Health System, Inc. and North Shore-Long Island Jewish Health Care, Inc. seek CON approval to add several facilities to the NS-LIJ Health Care Inc's Obligated Group as their active parent and to incorporate them into the already established obligated group. By adding the facilities to the Obligated Group, HCI will be able to more efficiently respond to the needs of the communities. The obligated group will facilitate more effective sharing and redistribution of assets, including capital funds and certified beds and services.

The applicant states that this project is consistent with the community service plans of each hospital. The implementation of the project will permit the expanded obligated group to utilize and distribute more efficiently and effectively its resources to meet the needs of each facility's respective community. The facilities in the NS-LIJ System have a common governance structure. The implementation of this project will facilitate administrative and clinical integration amongst the obligated group's facility members. The applicant also indicates that the facilities will continue to meet the health care needs of the residents in their individual service areas.

Background

When this CON is completed, the beds and services will remain the same. Table 1 shows certified beds by service for the hospitals in the NSLIJ Health System.

<i>Bed Type</i>	<i>LIJ</i>	<i>Forest Hills</i>	<i>NoS Univ</i>	<i>Frank</i>	<i>Glen Cove</i>	<i>Plain view</i>	<i>Syos</i>	<i>Hun Hos</i>	<i>South Side</i>	<i>Lenox Hill</i>	<i>S.I. North</i>	<i>S.I. South</i>
Med/Surg	375	251	486	248	174	168	71	301	194	478	254	75
CCU	10		15	8	7	13		14	10	27	32	8
ICU	62	28	79	8	11	8	12	12	16	15	36	8
Bone Marrow Transplant	4		4									
AIDS			30							12		
PMR					55				24		48	
Coma Recovery									5		2	
Burns											10	
TBI									16		18	
Maternity	41	20	73			15		30	29	33	41	
Neonat Cont	4	9	5						5	10	2	
NICU	24		32							10	6	
Neonatl Inter	29	1	14					10	6	8	3	
Pediatric	83	3	33	20				20	16	32	23	
Pediatric ICU	12		15								4	
Psychiatric	236		26	21	18		20	21	20	27	29	35
Chem Dep. Rehab												24
Chem Dep. Detox												56
Total	880	312	812	305	265	204	103	408	341	652	508	206

North Shore-Long Island Jewish Health System Hospitals have the following New York State designations:

Long Island Jewish Medical

- Pediatric Trauma Center
- Regional Perinatal Center
- Stroke Center

Forest Hills Hospital

- Level 2 Perinatal Center
- Stroke Center

North Shore University Hospital

- AIDS Center
- Regional Perinatal Center
- Regional Trauma Center
- SAFE Center
- Stroke Center

Franklin Hospital

- Stroke Center

Glen Cove Hospital

- Stroke Center

Plainview Hospital

- Level 2 Perinatal Center
- Stroke Center

Syosset Hospital

- Stroke Center

Huntington Hospital

- Area Trauma Center
- Level 2 Perinatal Center
- Stroke Center

Southside Hospital

- Area Trauma Center
- Level 2 Perinatal Center
- Stroke Center

Lenox Hill Hospital

- AIDS Center
- Level 3 Perinatal Center
- Stroke Center

Staten Island University Hosp-North

- Burn Center
- Level 3 Perinatal Center
- Regional Trauma Center
- Stroke Center

Analysis

In 2007, inpatient discharges in the system's hospitals totaled 238,906, excluding healthy newborns; by 2009, discharges increased by 3.1 percent to 246,257. System-wide, these discharges generated an average overall occupancy of 75 percent between 2007 and 2009. Several of the hospitals in the System also provide inpatient care for healthy newborns. When these discharges are factored in, the total number of inpatient discharges recorded by the hospitals in the System increased by an average of 23,400 (Table 2).

The System also operates two Residential Health Care Facilities (RHCF)s, Orzac Center for Extended Care & Rehabilitation (120 beds) and North Shore University Hospital Stern Center for Extended Care and Rehabilitation

(256 beds). Over the last three years, these nursing facilities generated RHCF occupancy rates of 96 percent and 73 percent, respectively.

**Table 2:
North Shore – LIJ Health System: Distribution of Inpatient Discharges and Occupancy Rates**

<i>Hospital</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>Current Beds</i>
<i>Inpatient Discharges (Excluding Healthy Newborns and Occupancy Rates Based on Current Beds)</i>							
Glen Cove Hospital	9,372	9,316	9,525	73.1	71.1	71.2	265
Franklin Hospital	10,578	10,891	11,320	61.7	62.1	60.4	305
North Shore University Hospital	47,701	47,918	48,552	94.3	94.0	94.0	812
Syosset Hospital	4,080	4,348	4,601	42.8	50.6	58.3	103
Plainview Hospital	14,013	13,482	13,079	99.4	97.8	92.6	204
Huntington Hospital	15,495	16,113	16,434	56.5	57.6	56.3	408
Southside Hospital	15,706	15,617	15,288	66.5	65.1	63.7	341
Lenox Hill Hospital	28,739	27,351	26,672	59.5	57.7	55.8	652
Long Island Jewish M.C.	42,077	44,607	45,908	84.6	85.1	85.4	880
Forest Hills Hospital	13,215	12,970	15,855	60.8	59.9	70.7	312
Staten Island University South	8,942	9,132	9,598	71.6	71.1	71.8	206
Staten Island University North	28,988	28,594	29,425	89.4	86.3	85.9	508
Total	238,906	240,339	246,257	75.6	75.0	75.1	4,996
<i>Inpatient Discharges Including Healthy Newborns</i>							
Glen Cove Hospital	9,372	9,316	9,525				
Franklin Hospital	10,578	10,891	11,320				
North Shore University Hospital	52,635	53,054	54,093				
Syosset Hospital	4,080	4,348	4,601				
Plainview Hospital	15,362	14,799	14,330				
Huntington Hospital	17,112	17,658	17,844				
Southside Hospital	18,393	18,039	17,452				
Lenox Hill Hospital	32,243	30,702	29,989				
Long Island Jewish M.C.	46,988	49,392	50,480				
Forest Hills Hospital	15,167	14,899	18,056				
Staten Island University South	8,942	9,132	9,598				
Staten Island University North	31,968	31,245	32,099				
Total	262,840	263,475	269,387				

Source: SPARCS 2007-2009

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

North Shore Long Island Jewish Health Care, Inc. (HCI) requests approval to transfer membership interest in Staten Island University Hospital from North Shore Long Island Jewish Health Care System, Inc. (System) to HCI and to establish HCI as the active parent over:

- o Staten Island University Hospital (North and South campuses)
- o Franklin Hospital (and their CHHA and LTHHCP)
- o Orzac Center for Extended Care and Rehabilitation
- o Southside Hospital

- Huntington Hospital
- Lenox Hill Hospital

At the same time, the subject facilities and HCI will become part of the North Shore-Long Island Jewish Obligated Group. As part of this application, HCI is requesting approval to seek refinancing for current and past debt obligations for the proposed Obligated Group members.

Upon approval HCI will be the active parent over:

- Long Island Jewish Medical Center (and their CHHA)
- North Shore University Hospital (both campuses and their CHHA)
- Glen Cove Hospital
- Plainview Hospital
- Forest Hills Hospital
- North Shore Univ Hosp Stern Family Center for Extended Care&Rehab
- Staten Island University Hospital (North and South campuses)
- Franklin Hospital (and their CHHA and LTHHCP)
- Orzac Center for Extended Care and Rehabilitation
- Southside Hospital
- Huntington Hospital
- Lenox Hill Hospital

Compliance with Applicable Codes, Rules and Regulations

The applicant has attested to compliance with the following: the governing body and medical staff will develop, maintain, and periodically review a list of policies and procedures that will ensure that services performed at the facility will conform with generally accepted standards of practice. The Center's admissions policy will include anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, and source of payment. All services will be performed in compliance with all applicable federal and state rules, including standards for credentialing, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. The governing body intends on using a patient satisfaction measurement tool, and discussions with their patients, to reflect responsiveness to community need, as well as provide continuous, ongoing feedback to the organization for the total quality management improvement program.

Character and Competence

HCI has 154-member Board of Directors, of which 153 are currently filled. The Officers of the Board of Directors are as follows:

<u>Name</u>	<u>Office Held</u>
Richard D. Goldstein	Chairman
Michael J. Dowling	President and Chief Executive Officer
Mark Claster	Vice Chairman
William L. Mack	Vice Chairman
Barry Rubenstein	Vice Chairman
Alan I. Greene	Treasurer
Donald Zucker	Secretary
Lawrence G. Smith, M.D.	Executive Vice President and Chief Medical Officer
Mark J. Solazzo	Executive Vice President and Chief Operating Officer
Kathleen Gallo, Ph.D.	Senior Vice President and Chief Learning Officer
Howard B. Gold	Senior Vice President, Managed Care and Business Development
Jeffrey A. Kraut	Senior Vice President, Strategic Planning and Marketing
Robert S. Shapiro	Senior Vice President and Chief Financial Officer
Eugene S. Tangney	Senior Vice President and Chief Administrative Officer
Keith C. Thomspson	Senior Vice President, General Counsel and Assistant Secretary
Harry E. Gindi	Assistant Secretary

Staff from the Division of Certification and Surveillance reviewed the disclosure information submitted by the entire Board of Directors 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 and relatives' ownership interest in other health care facilities. The licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

Additionally, the staff from the Division of Certification and Surveillance reviewed the ten-year surveillance history of all associated facilities. The review found that any citations were properly corrected with appropriate remedial action. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which 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

Background

North Shore-Long Island Jewish Health System, Inc. (System), is a comprehensive integrated delivery system formed to ensure the delivery of a broad range of quality healthcare services to the communities it serves and to achieve economies of scale through consolidation, cooperation and joint planning among its members, and is the sole corporate member of North Shore-Long Island Jewish Health Care, Inc. (HCI). HCI will become the active parent of the members in the NS-LIJ Obligated Group, formed to provide its members an enhanced credit position and expanded access to capital markets. Presented as BFA Attachment A is the proposed organizational chart of the NS-LIJ Health System, Inc. and the Obligated Group.

The members of the expanded NS-LIJ Obligated Group will delegate to HCI, as the active parent, decision making authority over the member hospitals, including the movement of beds among its members.

Further, this application requests approval to seek refinancing of current and past debt obligations, not related to current Certificate of Need Applications, for the proposed NS-LIJ Obligated Group members. HCI and the expanded NS-LIJ Obligated Group seek to:

- Refund legacy debt for savings or at a modest cost to conform collateral, covenants and tax-exempt conduit;
- Refund 2001A bonds maturing in 2021;
- Evaluate conversion of Staten Island University Hospital's (SIUH) \$11 million outstanding taxable Commercial Paper variable rate bonds to tax-exempt fixed rate to free up bank facilities and eliminate renewal risk; and
- Evaluate conversion of Huntington Hospital's \$5.680 million 2002 Series A outstanding tax-exempt variable rate bonds to fixed rate to free up bank facilities and eliminate renewal risk.

Presented as BFA Attachment B is the NS-LIJ Obligated Group Debt Summary of Matched Maturity Refunding results. The total net savings is estimated to be \$17,258,061.

Capability and Feasibility

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

Presented as Attachments C through E are financial summaries of the health care institutions over which NS-LIJ will become active parent. It is noted that the financial summaries for the current obligated group are consolidated into the financial summaries for NS-LIJ Health System, Inc.

As shown, a few of the facilities have maintained positive working capital and net asset positions (Lenox Hill Hospital, North Shore University Hospital, Long Island Jewish Medical Center, Glen Cove Hospital, Staten Island University Hospital and Huntington Hospital).

Also, the same facilities have generated excess revenues in the years shown with the exception of Lenox Hill Hospital. The acute care facilities that either have not maintained positive working capital, positive net asset positions, or generated excess revenues in the years shown are projecting net surpluses in their operations for 2011. These surpluses will be attained through aggressive cost control and market expansion activities and by attaining the cash flow savings generated by the proposed refinancing.

The NS-LIJ Health System, Inc. manages various treasury functions including cash, investments, working capital and debt at the consolidated corporate level and not by individual entity. Net working capital as reported at the various entities appears negative, primarily as a result of transferring cash to the NS-LIJ corporate level to be managed and invested. The flexibility to address any individual entity's liquidity needs by drawing on the resources of the health system as needed is a key benefit of belonging to the health system and of becoming a member of the Obligated Group. The health system's consolidated adjusted net working capital as of September 30, 2010 was approximately \$1.1 billion.

All of the individual entities currently in or proposed to join the Obligated Group have reported improved operating results between 2008 and 2010, and all except Franklin Hospital and Lenox Hill Hospital have recorded positive operating income in 2010. Operating net income and loss trends by entity are as follows:

- Plainview Hospital's net operating loss from 2008 to 2009 improved by a positive \$1.9 million to a loss of \$1.7 million as a result of increased surgical volume, case mix and physician billing revenue, as well as management initiatives to reduce average length of stay and contain expenses. Management remains focused on managing expenses in relation to volume and revenue and improving the operating margin, which as of September 30, 2010, was showing net operating revenues of \$774,000.
- Forest Hill Hospital's net operating income from 2008 to 2009 improved by \$11.6 million compared to an operating loss of \$3.1 million in 2008. This improvement was primarily the result of increased inpatient discharges and emergency room visits associated with the closing of two nearby hospitals in February, 2009. In addition, increased case mix and revenue cycle initiatives contributed to the operating improvement. As of nine months ended September 30, 2010, the net operating income is \$7,911,000.
- Glen Cove Hospital is reporting net operating results of \$674,000 as of September 30, 2010 and expects to end the year with a \$2.2 million operating surplus. This continues the improvement trend over the past three years from a loss of \$5.08 million in 2008 which increased slightly to \$5.98 million in 2009. Total operating revenue increased as a result of increased medicine and rehabilitation volume, the benefits of which were partially offset by a decrease in higher weighted surgical volume.
- Total operating expenses increased as a result of investments in quality initiatives, technology, and patient service as well as increased employee benefits associated with the pension and major medical expenses and the Mass Transit Authority tax assessment.
- Increases in total operating expenses were mitigated by management initiatives focused on supply chain, supply expense, utilization and length of stay. Management is pursuing opportunities to increase surgical volume, further increase rehabilitation volume, and contain operating expenses in relation to revenue.
- Franklin Hospital's 2009 net loss of \$2.2 million improved \$1.6 million over 2008 primarily as a result of increased net patient service revenue associated with incremental volume including surgical cases and cost containment in relation to volume. September 30, 2010 net loss improved to \$602,000, primarily as a result of revenue cycle initiatives and continued cost containment in relation to volume and revenue. Franklin's management continues to implement revenue cycle initiatives and contain costs in relation to volume and

revenue and is focused on increasing volume through expansion of existing programs, development of new programs and active pursuit of affiliations with new physician practices.

- Southside Hospital reported operating income of \$4.0 million for in 2009, an improvement of \$9.8 million from the net loss of \$5.8 million for 2008. The improvement reported in 2009 benefited from certain one-time expense adjustments related to the final close-out reconciliation of a legacy materials management and accounts payable system as well as changes in estimates for certain third party payer liabilities. In addition, management continues to focus on expense reduction initiatives and increasing volume with an active physician recruitment program and new program initiatives. These efforts have resulted in positive net operating income as of September 30, 2010 of \$5,328,000 without the benefit of non-recurring items.
- Lenox Hill Hospital has had significant net operating losses during 2008 and 2009. This was the key reason that Lenox Hill issued a request for proposals from several larger health systems for affiliation, and why it ultimately chose NS-LIJ as its preferred partner. The operating losses resulted from a combination of many factors, including declining patient volumes, a relatively weak negotiating position with managed care payers as a stand-alone acute care hospital, a limited primary care network; need to upgrade systems and processes for managing revenue cycle and the supply chain issues. These factors have been addressed since Lenox Hill joined the health system in May 2010. NS-LIJ management expects that improvements will continue on multiple fronts over the next several years.
- Lenox Hill's budgeted operating loss for 2011 is \$9 million. Break-even or positive operating results are expected to be achieved in future years as a variety of initiatives are implemented.

Moody's Investors Services upgraded its credit rating of Lenox Hill's bond debt in September 2010, an objective demonstration of market confidence in Lenox Hill Hospital's improved prospects since becoming a member of the NS-LIJ Health System, Inc.

Designation as an active parent and the formation of the obligated group is expected to enhance NS-LIJ's health care facilities and contribute to a greater marketing presence for the System and its providers.

Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Proposed Organizational Chart for NS
BFA Attachment B	Summary of Matched Maturity Refunding Results
BFA Attachment C	Financial Summary, North Shore
BFA Attachment D	Financial Summary, Lenox Hill Hospital
BFA Attachment E	Financial Summary 2008
BFA Attachment F	Financial Summary for September 2010 North Shore
BFA Attachment G	Financial Summary, North Shore Long Island Jewish Health System, Inc. – Obligated Group for September 2010



Public Health and Health Planning Council

Project # 111074-E

Arnot Health, Inc.

County: Chemung (Elmira)
Purpose: Establishment

Program: Acute Care Services
Submitted: January 6, 2011

Executive Summary

Description

Arnot Ogden Medical Center (AOMC), a not-for-profit corporation comprised of a 216-bed acute care hospital with a 40-bed hospital-based residential health care facility (RHCF), and St. Joseph's Hospital (SJH), a not-for-profit corporation comprised of a 224-bed acute care hospital with a 71-bed hospital-based RHCF, both located in Elmira, seek CON approval to establish a new Article 28 corporation to become the active parent of both facilities. AOMC and SJH have entered into an Integration Agreement in order to create the proposed active parent, Arnot Health, Inc.

On December 28, 2010, AOMC entered into a management agreement with SJH whereby AOMC would provide general management oversight of SJH operations, including planning, policy making and supervision of certain hospital functions. This CON intends to complete this affiliation. Both AOMC and SJH will retain their current corporate identities, but will become consolidated subsidiaries of the parent corporation.

The total project costs are estimated at \$100,000 for the legal, accounting, and consulting fees associated with the formation of Arnot Health, Inc. Also, AOMC and SJH were awarded a \$19,000,000 HEAL-NY Phase 19 Grant to pay down their legacy debt. It is expected that SJH will use \$15,390,000 to pay off existing industrial development agency bonds and AOMC will use \$3,435,000 to reduce their debt, with the balance being used to offset anticipated transaction costs.

DOH Recommendation
Contingent approval.

Need Summary

The applicant states that this consolidation will result in the following outcomes:

- Governance/structural integration resulting in a single board with a systemic view;
- Functional/administrative integration resulting in reorganization by management lines of the new business/services structure. Financial and information

technologies represent initial priorities to be explored in order to reduce operational costs;

- Clinical integration leading to restructuring/consolidation of acute clinical services where appropriate in the service area;
- Development of best practice protocols throughout all clinical areas;
- Cultural integration entailing a "customer first" team building approach across the system; and
- Modernization/upgrading of physical plants to conform to current hospital codes as well as to respond to increasing outpatient and ambulatory needs.

Program Summary

As part of the Integration Agreement, AOMC and SJH have entered into a Catholicity Agreement. The Catholicity Agreement stipulates that SJH will maintain its Catholic identity and continue to abide by the Ethical and Religious Directives for Catholic Health Care Services (ERDs). AOMC and the other associated facilities will continue to provide the full spectrum of women's reproductive services, with the exception of elective abortion services. Going forward, no facility associated with Arnot Health, Inc. will provide elective abortion services. Planned Parenthood of the Southern Finger Lakes (Elmira) and Planned Parenthood of Rochester are alternatives for elective abortion services.

Financial Summary

Incremental Budget:	<i>Revenues:</i>	<i>\$(3,208,000)</i>
	<i>Expenses:</i>	<i>\$(5,490,000)</i>
	<i>Gain/(Loss):</i>	<i>\$ 2,282,000</i>

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural review is required.

Recommendations

Health Systems Agency

There is no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of an executed HEAL-NY Phase 19 grant contract. [BFA]
2. Submission of a photocopy of Arnot Ogden Medical Center's executed proposed amended certificate of incorporation and bylaws, which are acceptable to the Department. [CSL]
3. Submission of a photocopy of the St. Joseph's Health Care System, Inc.'s executed proposed amended certificate of incorporation and bylaws, which are acceptable to the Department. [CSL]
4. Submission of a photocopy of Arnot Health, Inc.'s executed proposed certificate of incorporation and bylaws, which are acceptable to the Department. [CSL]
5. Submission of a photocopy of an executed integration agreement, which is acceptable to the Department. [CSL]
6. Submission of a photocopy of an executed management agreement, which is acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Arnot Ogden Medical Center (AOMC), located at 600 Roe Avenue Elmira, New York and St. Joseph's Hospital (SJH), located at 555 St. Joseph's Boulevard Elmira, New York – Chemung County; seek CON approval to establish a new Article 28 corporation that will act as the active parent of both facilities. When this CON is completed, the beds and services at each facility will remain the same.

Arnot Ogden Medical Center and St. Joseph's Hospital have the following certified beds and services:

<u>Certified Beds</u>			
<u>Bed Category</u>	<u>Arnot Ogden</u>	<u>St. Joseph's</u>	<u>TOTAL</u>
Medical / Surgical	131	121	252
Coronary Care	17	4	21
Intensive Care	3	10	13
Burns		4	4
Maternity	25		25
Neonatal Intensive Care	13		13
Neonatal Intermediate Care	7		7
Pediatric	20		20
Chemical Dependency Rehab		20	20
Physical Medicine and Rehabilitation		40	40
Psychiatric		25	25
<i>Total Beds</i>	<i>216</i>	<i>224</i>	<i>440</i>

<u>Licensed Services</u>		
<u>Service Category</u>	<u>Arnot Ogden</u>	<u>St. Joseph's</u>
Ambulatory Surgery - Multi Specialty	✓	✓
Audiology		✓
Burn Center		✓
Burns Care		✓
Cardiac Catheterization - Adult Diagnostic	✓	
Cardiac Catheterization - Electrophysiology (EP)	✓	
Cardiac Catheterization - Percutaneous Coronary Intervention (PCI)	✓	
Cardiac Surgery – Adult	✓	
Chemical Dependence - Rehabilitation		✓
Chemical Dependence - Rehabilitation O/P		✓
Chemical Dependence - Withdrawal O/P		✓
Clinic Part Time Services	✓	✓
Clinical Laboratory Service	✓	✓
Coronary Care	✓	✓
CT Scanner	✓	
Dental O/P	✓	✓
Emergency Department	✓	✓
Health Fairs O/P	✓	
Intensive Care	✓	✓
Lithotripsy		✓
Linear Accelerator	✓	
Magnetic Resonance Imaging	✓	✓
Maternity	✓	
Medical Social Services	✓	✓
Medical/Surgical	✓	✓
Neonatal Intensive Care	✓	
Neonatal Intermediate Care	✓	
Nuclear Medicine - Diagnostic	✓	✓

<u>Service Category</u>	<u>Licensed Services</u>	<u>Arnot Ogden</u>	<u>St. Joseph's</u>
Nuclear Medicine - Therapeutic		✓	✓
Pediatric		✓	
Pharmaceutical Service		✓	✓
Physical Medical Rehabilitation			✓
Physical Medicine and Rehabilitation O/P			✓
Primary Medical Care O/P		✓	✓
Psychiatric			✓
Radiology - Diagnostic		✓	✓
Radiology -Therapeutic		✓	
Renal Dialysis - Acute		✓	✓
Renal Dialysis - Chronic		✓	
Respiratory Care		✓	
Swing Bed Program			
Therapy - Occupational O/P		✓	✓
Therapy - Physical O/P		✓	✓
Therapy - Speech Language Pathology			✓

Other authorized locations:

1. Arnot Ogden Medical Center:
 - 3 extension clinics in the community providing services such as Medical Social Services, Physical Therapy, Primary Medical Care, Diagnostic Radiology, Nutritional, Clinical Laboratory Service, Chronic Renal Dialysis and Home Peritoneal Dialysis Training and Support.
2. St. Joseph's Hospital:
 - 4 extension clinics in the community providing Primary Medical Care, Medical Social Services, Renal Dialysis, Nutritional, and Home Peritoneal Dialysis Training and Support.

State Designations:

1. Arnot Ogden Medical Center:
 - Level 3 Perinatal Center and
 - Stroke Center.
2. St. Joseph's Hospital:
 - Burn Center; and
 - Stroke Center.

Residential Health Care Facilities:

- Arnot-Ogden Medical Center Residential Health Care Facility, 600 Roe Avenue Elmira, New York- 40-beds; January 19, 2011 RHCF occupancy – 97.5%; and
- St Josephs Hospital - Skilled Nursing Facility, 555 St. Joseph's Boulevard Elmira, New York -71-beds; January 19,2011 RHCF occupancy – 97.2%.

AOMC and SJH have reached an agreement on Catholicity. The agreement permits SJH to maintain its Catholic identity. Once the merger is complete, Arnot Health will provide the full spectrum of women's health services, with the exception of elective abortion. For 2009 and 2010, AOMC performed 8 elective abortions per year. Planned Parenthood of the Southern Finger Lakes performs elective abortions under 13 weeks and refers cases over 13 weeks to Planned Parenthood in Rochester. Arnot Health will continue to be a referral for patients from Planned Parenthood of the Southern Finger Lakes should complications arise during elective procedures. The Department's Division of Family Health has reviewed this information and also determined that access to women's health services will not be compromised.

Analysis

Inpatient Statistics

Displayed in Table 3 below are the inpatient discharges and occupancy rates of Arnot Ogden Medical Center and St. Joseph Hospital. As shown here, the majority of inpatient discharges for both facilities occurred in major service category medical/surgical. Over the last 3 years (2007-2009), the total inpatient discharges at Arnot Ogden Medical Center ranged from 11,398 to 11,811. The overall occupancy rates for inpatient discharges during the interval ranged from 66.0 percent to 67.0 percent. During the same period, total inpatient discharges at St. Joseph's Hospital ranged from 5,341 to 5,891, resulting in occupancy rates ranged from 46.3 percent to 54.9 percent (Table 1).

Table 1: Inpatient Utilization by Major Service Category				
<u>Service</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>Current Beds</u>
Arnot Ogden Medical Center				
Discharges				
Medical/Surgical	7,927	8,117	8,278	
Pediatric	539	461	527	
Obstetric	1,576	1,372	1,456	
General Psychiatric	37	30	34	
Chemical Dependency	23	19	24	
High Risk Neonates	215	228	257	
Subtotal	10,317	10,227	10,576	
Healthy Newborns	1,362	1,171	1,235	
Grand Total	11,679	11,398	11,811	
Arnot Ogden Medical Center				
Occupancy Based on Current Beds				
Medical/Surgical	77.0	77.7	74.9	151
Pediatric	21.0	19.5	19.5	20
Obstetric	45.6	39.6	40.8	25
General Psychiatric	0.0	0.0	0.0	0
Chemical Dependency	0.0	0.0	0.0	0
High Risk Neonates	59.0	66.0	72.5	20
Total	66.8	67.0	65.9	216
St Joseph's Hospital				
Discharges				
Medical/Surgical	4,342	4,090	3,828	
Pediatric	25	9	5	
Obstetric	17	11	9	
General Psychiatric	953	921	926	
Chemical Dependency	554	483	573	
Subtotal	5,891	5,514	5,341	
Grand Total	5,891	5,514	5,341	
St Joseph's Hospital				
Occupancy Based on Current Beds				
Medical/Surgical	47.3	43.7	37.0	179
Pediatric	0.0	0.0	0.0	0
Obstetric	0.0	0.0	0.0	0
General Psychiatric	92.8	87.6	93.2	25
Chemical Dependency	74.5	58.5	69.0	20
Subtotal	54.9	50.0	46.3	224

Source: SPARCS 2007 – 2009

Emergency Department, Ambulatory Surgery and Clinic Visits

The Emergency Department (ED), Ambulatory Surgery programs and Clinics at Arnot Ogden Medical Center and St. Joseph Hospital are well utilized. Over the last 3 years (2006-2008), AOMC recorded an average of 37,274 total ED

visits; of these, approximately 14.0 percent resulted in an inpatient admission. During the same period, St. Joseph Hospital recorded an average of about 15,980 total ED visits; about 26.0 percent of these visits resulted in an inpatient admission.

In 2006, AOMC recorded 6,658 Ambulatory Surgery procedures; by 2007, these procedures increased by more than 600 to 7,321. In 2008, the facility's amb/surg procedures stood at 7,506. On the other hand, during the same period, the number of amb/surg procedures at SJH's declined steadily. In 2006, the hospital performed 2,848 amb/surg procedures; by the end of 2007, these procedures had declined to 2,788 and stood at 2,438 in 2008.

During the period under review, clinic visits at AOMC averaged about 9,500 visits per year and amounted to 44,531 at St. Joseph's Hospital (Table 2).

Table 2: Emergency Department, Ambulatory Surgery and Clinic Utilization				
<u>Year</u>	<u>Total ED Visits</u>	<u>% ED Visits Resulting in Inpatient Admission</u>	<u>Amb/Surg Procedures</u>	<u>Clinic</u>
Arnot Ogden Medical Center				
2006	35,330	13.5	6,658	9,398
2007	36,310	14.4	7,321	9,597
2008	40,181	12.6	7,506	9,683
St Joseph's Hospital Of Elmira				
2006	16,811	24.0	2,848	46,405
2007	15,518	27.1	2,788	45,174
2008	15,614	26.9	2,438	42,014

Source: Institutional Cost Reports, 2006 – 2008

Both facilities have strong community outreach programs and actively partner on local and regional projects. This consolidation will serve to avoid duplication of outreach programs and address a broader range of public health needs. Additionally, the two facilities will have the opportunity to realign healthcare services in the community as the new entity seeks to address acute and chronic disease needs in the service area.

These efforts will include the restructuring of acute clinical services within the service area and consolidation where appropriate. This will also lead to the eventual elimination of excess inpatient capacity and the strengthening of outpatient capacities that enhance access to care by underserved populations. The consolidated facilities will also seek to develop consistent best practice protocols throughout all clinical areas.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Arnot Ogden Medical Center and St. Joseph's Hospital propose the establishment of a not-for-profit active parent corporation. The permanent name of the new corporation will be Arnot Health, Inc.

Arnot Ogden Medical Center was recently approved to become the active parent/co-operator of Ira Davenport Memorial Hospital, a 38-bed hospital located in Bath.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services.

Character and Competence

The initial board of Arnot Health, Inc. is to be comprised of 19 directors; eight from the Arnot Ogden board, eight from the St. Joseph's board, two from the Ira Davenport Hospital Board, and the proposed chair to be the current incumbent Chair of the Arnot Ogden Medical Center Board. The proposed members of the Board of Directors for Arnot Health, Inc. are as follows:

Proposed Chair (current Arnot Ogden Chair)

Stephen J. Eberhard, MD

Arnot Ogden Appointed Members

Daniel J. Burke
David Dalrymple
Christine M. Deschamps
Mark J. Hagan
Michael P. Hosey
Roy A. Kyles
Margaret B. Streeter
Ben E. Lynch

St. Joseph's Appointed Members

Joseph P. Manning
Donald G. Quick
John Gough
Melinda Sartori
John O'Mara
Sister Mary Louise Mitchell
Robert M. McNamara
Roger Schenone, DO

Ira Davenport Appointed Members

Randy S. Lehman
Patrick J. Rogers

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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.

St. Joseph's Hospital was fined \$6,000 in September 2002 for an occurrence where a right-sided ultrasound-guided thoracentesis was performed by a radiologist instead of a left-sided ultrasound-guided thoracentesis.

St. Joseph's Hospital was fined \$4,000 in July 2003 for an occurrence in an outpatient pain clinic when a medial branch block injection was administered incorrectly.

Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

Conclusion

The above reviews revealed 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

Background

Upon the Integration date, Arnot Health, Inc. will become the sole member and active parent of each Constituent Corporation, and will arrange for or provide the following services to AOMC and SJH:

- Executive Management, Marketing, Information technology, Human resources, and Administrative services;
- Financial operations support and guidance, Assistance in obtaining financing, Assistance with strategic planning, and Assistance with managed care contracting;
- Operation of employed physician division;
- Any other services requested by the Constituent Corporation and agreed to by Newco, Inc.

The goals of this consolidation are consistent with the Berger Commission and will result in the following outcomes per the applicant:

- Governance/structural integration resulting in a single board with a systemic view;
- Functional/administrative integration resulting in reorganization by management lines of the new business service structure. Financial and information technologies represent initial priorities as opportunities are explored to reduce operational costs;
- Clinical integration will involve restructuring acute clinical services within the service area and consolidation where appropriate. Development of consistent best practice protocols will be established throughout all clinical areas. This will also lead to the eventual elimination of excess inpatient capacity and development of outpatient capacities that enhance access to underserved population;
- Cultural integration entailing a "customer first" team building approach across the evolving system;
- Modernize and upgrade physical plant capacities to respond to increasing outpatient and ambulatory roles and to conform to current hospital codes.

As background, under CON 101090-E Arnot Ogden Medical Center was contingently approved by the Public Health Council (PHC) on November 19, 2010 to become the active parent of Ira Davenport Memorial Hospital (IDMH) and the Taylor Health Center (THC):

- Ira Davenport Memorial Hospital, Inc is a 38 bed not-for-profit acute care hospital located in Bath, NY and became part of (AOMC) under CON 101090. The hospital offers Medical/surgical, Primary medical care, CT scanner, an Emergency Department, Medical Social Service, Diagnostic Radiology, Clinic Part Time Services, Health Fairs, Swing Bed Program, Clinical Laboratory Service, Intensive Care, Diagnostic Nuclear Medicine, Coronary Care, MRI and Pharmaceutical Service. The hospital's service area encompasses Steuben County.
- Taylor Health Center is a 120-bed not-for-profit Hospital based Nursing home operated by Ira Davenport Memorial Hospital, Inc located at 7571 State Route 54, Bath, NY (Steuben County) and became part of (AOMC) under CON 101090.

- Ira Davenport also operates an extension clinic called the Family Health center, which is located at 226 West Morris Street, Bath, NY and became part of (AOMC) under CON 101090. The facility is approved to provide both dental and primary medical care o/p services.

Presented as BFA Attachment F is Arnot Health, Inc.'s, organization chart.

Operating Budget

The applicant has submitted the Inpatient and Outpatient operating budget, in 2011 dollars as summarized below:

	<u>Current Year</u> <u>AOMC & SJH*</u>	<u>First Year</u> <u>Incremental</u>	<u>Cumulative</u>
<u>Revenues:</u>			
Inpatient	\$141,631,478	\$(2,372,000)	\$139,259,478
Outpatient	111,683,198	(836,000)	110,847,198
Other Operating Income (A)	44,641,551	0	44,641,551
Non-Operating Income (B)	<u>547,319</u>	<u>0</u>	<u>547,319</u>
Total Revenue	\$298,503,546	\$(3,208,000)	\$295,295,546
<u>Expenses:</u>			
Operating	\$ 273,383,953	\$(4,930,000)	\$268,453,953
Capital	<u>16,971,504</u>	<u>(560,000)</u>	<u>16,411,504</u>
Total Expenses	\$290,355,457	(\$5,490,000)	\$284,865,457
Excess Revenue over Expenses	<u>\$8,148,089</u>	<u>\$2,282,000</u>	<u>\$10,430,089</u>
<u>Utilization: from (SPARCS)</u>			
Discharges- AOMC	11,811		
Discharges-SJH	<u>5,341</u>		
Total Discharges	17,152	(405)	
Patient Days-AOMC	51,956		
Patient Days-SJH	37,855		
Inpatient Occupancy - AOMC	65.9%		
Inpatient Occupancy - SJH	46.3%		
AOMC 40-bed RHCFC Occupancy - as of January 19, 2011		97.5%	
SJH 71-bed RHCFC Occupancy -as of January 19, 2011		97.2%	

*Note the above information doesn't include Ira Davenport Memorial Hospital's 2009 financial results of \$25,980,819 in operating revenues and \$856,214 in excess of revenue over expenses as shown on the last page of BFA Attachment A entitled AOMC and Affiliates Consolidating and Combining Statements of Operations.

Inpatient and Outpatient utilization by payor source as of the first year:

<u>Payor</u>	<u>Inpatient</u>	<u>Outpatient</u>
Medicaid Fee -for-Service	21.00%	12.98%
Medicaid Managed Care	.65%	.64%
Medicare Fee-for-Service	37.60%	31.67%
Medicare Managed Care	8.38%	7.02%
Commercial Fee-for-Service	27.29%	39.44%
Commercial Managed Care	.05%	.09%
Private & All Other	4.23%	7.66%
Charity Care	.80%	.50%

In the first year the applicant is projecting hospital related revenues will decline 1.3% largely from physicians associated with Guthrie Healthcare System (GHS) redirecting their patients from St. Joseph's Hospital to GHS. Expenses reflect a reduction in wages of \$1,945,000 and \$486,000 in fringe benefits as the result of reducing staffing by 36.1 full time equivalents (FTE), which represents approximately 1.4% of current labor expense and staffing. Other expenses, including medical and surgical supplies and purchased services, are expected to decline by \$2,499,000 on a combination of becoming eligible to participate in the 340B Drug Discount Program managed by the Health Resources and Services Administration (HRSA), tighter control on purchasing and savings through economies of scale. Capital costs are expected to decline by a net \$560,000 primarily from a \$1,000,000 reduction in interest expense from using a \$19,000,000 HEAL NY Phase 19 Grant to reduce the Constituent Corporation legacy debt. The balance of \$440,000 in capital cost is for depreciation on anticipated future capital items.

	<u>Current Year</u>	<u>First Year Incremental</u>	<u>Cumulative</u>
<u>(A) Other Operating Income:</u>			
Arnot Medical Services (AMS) multi-specialty physician services	\$36,256,185	\$0	\$36,256,185
AOMC – Bad Debt Recoveries	1,843,000		1,843,000
AOMC-Grants (HIV Healthy Heart, etc)	750,000		750,000
AOMC – Cafeteria Sales	728,000		728,000
AOMC-Purchase rebates	652,000		652,000
AOMC - Other Revenue (1)	2,361,229		2,361,229
SJH- Cafeteria Sales	374,000		374,000
SJH-Therapy Contracts-	579,000		579,000
SJH-Rebates & refunds	313,000		313,000
SJH-Rental Income	388,000		388,000
SJH- Other Revenue (2)	<u>397,137</u>	<u>0</u>	<u>397,137</u>
Total Other Operating Income	\$44,641,551	\$0	\$44,641,551
<u>(B) Non-Operating Income</u>			
(Investment income net of losses & fees)	\$547,319	\$0	\$547,319

(1) AOMC-Other Revenues consists primarily of: school of nursing & x-ray tuition, corporate drug testing services, rental income, investment income on operating funds, laundry services, remote cardiac services, paramedic training, remote sleep laboratory services, etc.

(2) SJH-Other Revenues consists primarily of: consulting fees, loss on sale of stocks, medical record receipts, interest income, commissions on TV & Vending machines, etc.

Capability and Feasibility

There appear to be no significant issues of capability or feasibility associated with the application. Project costs are estimated to be \$100,000 for the legal, accounting and consulting fees associated with the formation of the new active parent, Arnot Health, Inc. Additionally, Arnot Ogden Medical Center (AOMC) and St. Joseph's Hospital (SJH) were awarded a \$19,000,000 HEAL NY Phase 19 Grant to pay down their legacy debt. SJH will use \$15,390,000 to pay off their IDA bonds and AOMC will use \$3,435,000 to reduce their debt, with the balance being used to offset anticipated transaction costs as shown on BFA Attachment H, outlining payment of legacy debt.

Working capital for the merged entities (AOMC) and (SJH) will be derived from the net assets of the combined operation. Presented as BFA Attachments A and B are Arnot Ogden Medical Center and Affiliates (AOMC) and St. Joseph's Hospital and Subsidiary 2009 certified financial summaries, respectively, which show the facilities generated a combined \$9,130,398 in excess of revenues over expenses in 2009. Presented as BFA Attachment G is the pro forma balance sheet that estimates the combined net assets of Arnot Ogden Medical Center (AOMC) including Ira Davenport Memorial Hospital (IDMH) and St. Joseph's Health System, Inc., (SJHS) will be \$178,280,000.

Review of BFA Attachment B shows SJH had an operating loss of \$7,722,830 in 2008 and \$468,950 in 2009. SJH has undertaken a number of initiatives to help alleviate these losses and they include:

- Reduced labor cost by almost \$2,400,000 through layoffs and attrition;

- Reduced supply and other costs by approximately \$750,000 through contract re-negotiations and controlling usage;
- Reduction in purchase service costs of \$1,000,000;
- Eliminating non-bargaining unit retire benefits resulting in a one-time curtailment gain of \$3,600,000.

Presented as BFA Attachments C through E is Arnot Ogden Medical Center (AOMC) St. Joseph's Hospital (SJH), and Ira Davenport Memorial Hospital (IDMH) December 31, 2010 internal financial statements. AOMC internal financial statement shows they had \$7,002,115 in excess of revenues over expenses. SJH internal financial statement shows a \$2,524,316 loss, primarily attributed to a continued decline in inpatient and medical/surgical admission and surgical cases and IDMH shows a loss of \$943,210.

AOMC and SJH states the following initiatives are or will be undertaken at St. Joseph's Hospital (SJH):

- Approval of Medicare Dependent status, which is estimated to improve reimbursement by \$1,400,000;
- Participation in the 340B Drug Discount Program that is managed by the Health Resources and Services Administration (HRSA) Office of Pharmacy Affairs (OPA). This program is expected to reduce costs by at least \$500,000;
- The proceeds from HEAL NY Phase 19 Grant will eliminate SJH legacy debt and save them \$850,000 in annual interest payments;
- Receipt of HEAL NY Phase 15 Grant will allow SJH to improve outpatient workflow;
- Signing of the Integration Agreement which will allow both organizations to achieve savings through economies of scale;
- Elimination of bargaining unit retiree benefits, resulting in a one-time curtailment gain of \$750,000.

AOMC indicates the following initiatives have been put in place at Ira Davenport Memorial Hospital (IDMH):

- At the end of 2010 there was an integration of several support services:
 - There is now one shared chief financial officer and less personnel in the billing and finance departments;
 - There is now a joint laundry and combined management for dietary, facilities, and housekeeping;
 - Combining laboratory operations and medical records.
- IDMH legacy debt of \$2,267,000 was paid off through a HEAL NY Phase 11 Grant, saving an estimated \$225,000 in annual interest expense;
- IDMH has joined AOMC group purchasing which has provided savings through better pricing, reduced labor costs, and reduced health insurance premiums;
- In 2010 IDMH's nursing home recognized a large bad debt expense. Through the newly initiated controls, this will not occur again.

IDMH's 2011 budget projects operations will be at breakeven, and when adding in non-operating results, the hospital is expected to show \$150,000 in net income.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary for 2009, Arnot Ogden Medical Center and Affiliates
BFA Attachment B	Financial Summary for 2009 and 2008, St. Joseph's Hospital and Subsidiary
BFA Attachment C	Internal Financial Summary for 2010, Arnot Ogden Medical Center
BFA Attachment D	Internal Financial Summary for 2010, St. Joseph's Hospital
BFA Attachment E	Internal Financial Summary for 2010, Ira Davenport Memorial Hospital, Inc.
BFA Attachment F	Organization Chart, Arnot Health, Inc.
BFA Attachment G	Pro Forma Balance Sheet for Arnot Health, Inc.
BFA Attachment H	Payment of Legacy Debt

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Ambulatory Surgery Center - Establish/Construct

Exhibit #10

	<u>Number</u>	<u>Applicant/Facility</u>
1.	101134 B	Roosevelt SC, LLC (New York County)
2.	101159 E	Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter (Monroe County)
3.	101160 E	West ASC, LLC d/b/a Camillus Surgery Center (Onondaga County)
4.	101167 B	West Side GI, LLC (New York County)
5.	111133 B	Heritage One Day Surgery, LLC (Onondaga County)
6.	111138 B	Putnam GI, LLC d/b/a Putnam Endoscopy ASC, LLC (Putnam County)
7.	111194 B	East Side Endoscopy (New York County)



Public Health and Health Planning Council

Project # 101134-B

Roosevelt SC, LLC d/b/a Roosevelt Surgery Center, LLC

County: New York (New York)
Purpose: Establishment and Construction

Program: Ambulatory Surgery Center
Submitted: June 2, 2010

Executive Summary

Description

Roosevelt SC, a recently-formed limited liability company comprised of thirty-one members to be renamed Roosevelt Surgery Center, LLC (Roosevelt SC), requests approval to establish and construct an Article 28 diagnostic and treatment center (D&TC), to be located at 224 West 57th Street, New York. Roosevelt Surgery Center, LLC will be certified as a multi-specialty freestanding ambulatory surgery center (FASC) and provide the following services: general surgery, interventional pain management, ophthalmologic surgery, otolaryngology (ear, nose and throat surgery), and orthopedic surgery.

No opposition was received to the Department's inquiry to local hospitals regarding the impact of the proposed ASC in the service area. A letter of support from St. Luke's-Roosevelt Hospital Center reinforces the recommendation for approval.

Total project costs are estimated at \$9,446,036.

DOH Recommendation

Contingent approval for a 5-year limited life.

Need Summary

Roosevelt SC, LLC proposes to certify a multi-specialty FASC that will perform 6,096 procedures in four operating rooms.

The LLC includes 26 board-certified surgeons. The expected volume of first year procedures is based on the procedures currently performed in the physicians' private practices.

Approval of this project will bring existing private practice procedures to a regulated Article 28 facility with surveillance and quality controls.

Program Summary

The applicant will enter into a transfer and affiliation agreement for emergency and back-up services with St. Luke's Roosevelt Hospital, which is one-half mile or 3 minutes in travel time from the Center.

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

Financial Summary

Total project costs will be met from the members' personal investment of \$1,846,036, plus two seven-year loans from TD Bank totaling \$7,600,000 with an estimate interest rate ranging from 4% (1-month Libor plus 350 points) to an estimated 6.78%.

Budget:	<i>Revenues:</i>	\$ 8,027,305
	<i>Expenses:</i>	<u>6,897,841</u>
	<i>Gain/(Loss):</i>	\$ 1,129,464

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

Architectural Summary

The facility is intended for ambulatory surgery, with and without the use of general anesthesia, but there will be no overnight stays. Surgeries in multiple specialties will be performed. The proposed surgery center, which will contain four Class C operating rooms and appropriate support facilities, will be located in leased space on the third floor of an existing ten-story, fully-sprinklered, multi-purpose building. The total floor area of the Center will be approximately 11,300 square feet.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval for a limited life of 5 years from the date of issuance of an operating certificate is recommended contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a signed agreement with an outside independent entity satisfactory to the Department of Health to provide annual reports to the Department beginning in the second year of operation. Said reports shall include:
 - Data showing actual utilization including procedures;
 - Data showing breakdown of visits by payor source;
 - Data showing number of patients who need follow-up care in a hospital within seven days after ambulatory surgery;
 - Data showing number of emergency transfers to a hospital;
 - Data showing percentage of charity care provided, and
 - Number of nosocomial infections recorded during the year in question. [RNR]
3. Submission by the governing body of the ambulatory surgery center of an organizational Mission Statement, which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations such as racial and ethnic minorities, women, and handicapped persons and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
4. Submission of a statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with consultation of the legal counsel, and it is concluded that proceeding with the proposal is acceptable. [RNR, CSL]
5. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
6. Submission of an executed administrative services agreement, acceptable to the Department. [HSP, CSL]
7. Submission of a bank loan commitment for the applicant's financing acceptable to the Department. [BFA]
8. Submission of an executed lease agreement acceptable to the Department. [BFA, CSL]
9. Submission of an executed administrative services agreement acceptable to the Department. [BFA]
10. Submission of a copy of an amended executed Certificate of Amendment of the Articles of Organization, which is acceptable to the Department. [CSL]
11. Submission of an Operating Agreement, which is acceptable to the Department. [CSL]

Approval conditional upon:

1. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
2. The applicant shall complete construction by December 31, 2013. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

Roosevelt SC, LLC proposes to establish and construct a multi-specialty FASC that will include: otolaryngology, orthopedics, pain management, ophthalmic surgery, and general surgery. This application has been developed with the cooperation and support of St. Luke's Roosevelt Hospital and Continuum Health Partners.

The proposed center will be open Monday through Friday from 7:00 am to 6:00 pm. Weekend and/or evening procedures will be available, if needed, to accommodate patient scheduling issues.

The applicant will enter into a transfer and affiliation agreement with St. Luke's Roosevelt, for the provision of backup services.

The members of the LLC state that they are committed to serving all patients regardless of race, sex, age, religion, creed, sexual orientation, ability to pay, source of payment, or any personal characteristics.

The FASC will consolidate multiple, private medical practices and bring those existing private practices into the regulatory environment of an Article 28 Center, thus providing a measure of compliance with the latest standards of health and safety.

Based on current utilization, the applicant expects to perform 6,096 procedures in the first year of operation and 6,467 procedures in the third year of operation. Two percent of the total procedures are for charity care.

<u>Physicians</u>	<u>Specialty</u>	<u>Procedures</u>
Brian G. Brazzo	Ophthalmic Surgeon	300
Eric Cohen	ENT Surgeon	180
Jeffrey Dermksian	Orthopedics	144
Alison Estabrook	General Surgeon	204
Douglas Friedrich	Ophthalmic Surgeon	168
B. David Gorman	Ophthalmic Surgeon	288
Paul Hobeika	Orthopedics	240
Jacqueline Jones	ENT Surgeon	420
Elias Kassapidis	Orthopedics	96
Maurice Khosh	ENT Surgeon	132
Yosef Krespi	ENT Surgeon	360
Vandena Kumra	ENT Surgeon	132
Jonathan Levin	Pain Management	780
Dalia Nagel	Ophthalmic Surgeon	72
Isaac Namdar	ENT Surgeon	288
Gregory Pamel	Ophthalmic Surgeon	204
Louis Peter Re	Orthopedics	120
Benjamin Rosenstadt	Orthopedics	180
Michael Rothschild	ENT Surgeon	348
William Schell	Orthopedics	216
Andy Schwartz	Ophthalmic Surgeon	72
Julius Shulman	Ophthalmic Surgeon	300
Sharon Rosenbaum Smith	General Surgeon	144
Paul Tartter	General Surgeon	288
Rayman Yung	ENT Surgeon	120
George Zambatti	Orthopedics	300
<i>Total</i>		<u>6,096</u>

<u>Existing FASCs – New York County</u>	<u># ORs</u>	<u># Procedure Rooms</u>	<u>2008 Procedures</u>
Center for Specialty Care	3	2	4,963
Fifth Avenue Surgery Center	2	0	1,832
Gramercy Park Digestive Disease	0	4	NR
Gramercy Park Surgery	2	2	NR
Kips Bay Endoscopy Center	0	4	7,833
Mid-Manhattan Surgi-Center	2	1	3,401
Surgi-Care of Manhattan	6	0	9,360
East Side Endoscopy	0	4	Approved 3/20/09

Source: SPARCS

Conclusion

Based on the applicant's ability to improve access to ambulatory surgery services, approval is recommended for a limited life of five years from the date of the issuance of an operating certificate.

Recommendation

From a need perspective, contingent approval is recommended for a limited life of five years.

Programmatic Analysis

Background

The list of procedures provided reflects the proposed services are consistent with the specialties of the physicians that have expressed interest in practicing at this Center. The Center intends to review this list annually and as needed to determine the appropriateness of adding new procedures consistent with individual physician expertise.

The facility intends to enter into an administrative services agreement with Ambulatory Surgery Centers of America, (ASCOA).

Staffing will consist of 17.6 FTEs including registered nurses and technicians, under the supervision of the Center's medical director, Julius Schulman. Staffing is expected to increase to 18.9 FTEs by the third year of operation. Anesthesia services will be provided by board-certified or board-eligible anesthesiologists.

Emergency, in-patient and back-up support services are expected to be provided by St. Luke's Roosevelt Hospital which is one-half mile and three minutes in travel time from the Center. An answering service, with access to the surgeon who performed the surgery or his/her on call physician, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform with generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. The governing body reflect responsiveness to community need in the use of a patient satisfaction measurement tool that will provide continuous, ongoing feedback to the organization for the total quality management improvement program and planning discussions. Input from members of the medical staff and patients will provide the basis for additional services and free or reduced fee care to eligible patients.

Character and Competence

The membership of Roosevelt SC, LLC consists of 26 individual, Class A member physicians, four (4) individual Class B members, and Beth Israel Ambulatory Care Services Corporation as the sole Class C member. The Class A members will own a total of 40% of the membership interest, the Class B members will own a total of 20% of the membership interest and the Class C member will own 40% of the membership interests.

Class A

<u>Member</u>	<u>% Interest</u>
Brian Brazzo, M.D.	1.5385%
Eric Cohen, M.D.	1.5385%
Jeffrey Dermksian, M.D.	1.5385%
Alison Estabrook, M.D.	1.5385%
Douglas Friedrich, M.D.	1.5385%
B. David Gorman, M.D.	1.5385%
Paul Hobeika, M.D.	1.5385%
Jacqueline Jones, M.D.	1.5385%
Elias Kassapidis, M.D.	1.5385%
Maurice Khosh, M.D.	1.5385%
Yosef Krespi, M.D.	1.5385%
Vandana Kumra, M.D.	1.5385%
Jonathan Levin, M.D.	1.5385%
Dalia Nagel, M.D.	1.5385%
Isaac Namdar, M.D.	1.5385%
Gregory Pamel, M.D.	1.5385%
Louis Re, M.D.	1.5385%
Benjamin Rosenstadt, M.D.	1.5385%
Michael Rothschild, M.D.	1.5385%
William Schell, M.D.	1.5385%
Andrew Schwartz, M.D.	1.5385%
Julius Shulman, M.D.	1.5385%
Sharon Rosenbaum Smith, M.D.	1.5385%
Paul Tartter, M.D.	1.5385%
Raymond Yung, M.D.	1.5385%
George Zambetti, M.D.	1.5385%

Class B

<u>Member</u>	<u>% Interest</u>
Thomas Bombardier, M.D.	6%
Brent Lambert, M.D.	6%
Luke Lambert	2%
George Violin, M.D.	6%

Class C

<u>Member</u>	<u>% Interest</u>
Beth Israel Ambulatory Care Services Corporation	40%

Staff from the Division of Certification and Surveillance reviewed the disclosure information submitted by the individuals 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 and relatives' ownership interest in other health care facilities. In addition, the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department and the regulatory bodies in states where ASCOA provides services indicated no issues.

Additionally, the staff from the Division of Certification and 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.

The review found that any citations were properly corrected with appropriate remedial action. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

Conclusion

The above reviews revealed 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.

<h2>Financial Analysis</h2>

Background

Roosevelt SC will lease 18,000 square feet on the third floor of a multi-purpose building located at 224 West 57th Street, New York. The FASC site will include four operating rooms along with the requisite support areas. Roosevelt SC proposed owners consist of three classes of Members: Class A, comprised of 26 board certified or eligible physicians practicing locally; Class B, consists of four individuals who are owners of Cataract and Laser Center Partners, LLC d/b/a Ambulatory Surgical Centers of America (ASCOA); and Class C, Beth Israel Ambulatory Care Services Corporation (BIACSC). The officers and board of trustees of BIACSC are officers of Beth Israel Medical Center.

Roosevelt SC expects to perform 6,096 procedures in its first year of operation with the majority of these procedures being transferred from: St. Luke’s–Roosevelt Hospital Center (SLRH), their affiliates, the former Saint Vincent Catholic Medical Centers, or from the proposed member physicians’ current private practices.

Additionally, Roosevelt SC states that the member physicians have committed to serve their affiliated hospitals by: continuing to see patients there, perform inpatient surgeries there, and perform certain medically complex and higher acuity outpatient procedures there. It should be noted, SLRH has provided a letter of support for the project and has agreed to enter into a transfer and affiliation agreements for backup services with Roosevelt SC. SLRH is located a half-mile and three minutes away from Roosevelt SC.

Roosevelt SC will seek accreditation from either the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Accreditation Association for Ambulatory Health Care (AAAHC) or the American Association for the Accreditation of Ambulatory Surgery Facilities, Inc. (AAAASF) within two (2) years of becoming operational.

The proposed members of Roosevelt SC, LLC and their ownership percentages are as follows:

<u>Name</u>	<u>%</u>	<u>Name</u>	<u>%</u>
Class A Members:		Class A Members cont.	
Brian G. Brazzo, M.D.	1.5385%	Gregory J. Pamel, M.D.	1.5385%
Eric J. Cohen, M.D.	1.5385%	Louis P. Re, M.D.	1.5385%
Jeffrey V. Dermksian, M.D.	1.5385%	Benjamin Rosenstadt, M.D.	1.5385%
Alison Estabrook, M.D.	1.5385%	Michael Rothschild, M.D.	1.5385%
Douglas B. Friedrich, M.D.	1.5385%	Sharon Rosenbaum Smith, M.D.	1.5385%
B. David Gorman, M.D.	1.5385%	William Schell, M.D.	1.5385%
Paul Boulos-Elias Hobeika, M.D.	1.5385%	Andrew P. Schwartz, M.D.	1.5385%
Jacqueline E. Jones, M.D.	1.5385%	Jilius Shulman, M.D.	1.5385%
Elias Kassapidis, M.D.	1.5385%	Paul I. Tartter, M.D.	1.5385%
Maurice M. Khosh, M.D.	1.5385%	Raymond L.-T. Yung, M.D.	1.5385%
Yosef Krespi, M.D.	1.5385%	George J. Zambetti, M.D.	<u>1.5385%</u>
Vandana Kumra, M.D.	1.5385%	Total Class A	40.0000%
Jonathan Levin, M.D.	1.5385%		
Dalia S. Nagel, M.D.	1.5385%		
Isaac Namdar, M.D.	1.5385%		

<u>Name</u>	<u>%</u>
Class B Members:	
Thomas Bombardier, M.D.	6.0000%
Brent W Lambert, M.D.	6.0000%
Luke M. Lambert	2.0000%
George A. Violin, M.D.	<u>6.0000%</u>
Total Class B	20.0000%
Class C Member:	
Beth Israel Ambulatory Care Services Corp	<u>40.0000%</u>
Total Class C	40.0000%
Total Members	100.0000%

All Class A members are managers; Class B, Thomas J. Bombardier, M.D. is a manager; and in Class C there are two managers, Tim Day and Adam Henick.

Three of the four Class B members, Thomas J. Bombardier, M.D., Brent W. Lambert, M.D., and George A. Violin, M.D., are also approved member of two Article 28 FASC's in New York State (Syracuse ASC, LLC d/b/a Specialty Surgery Center of Central New York and Melville Surgery Center, LLC).

Until recently, they were also members of Ambulatory Surgery Center of Western New York. All four Class B members are members of South Shore SC, LLC d/b/a Island Surgery Center, which has been contingently approved to operate a FASC in Suffolk County (Project No. 042011-B). Class C member, Beth Israel Ambulatory Care Services Corporation (BIACSC) is also a member of SSNY Planning, LLC the approved operator of Beth Israel Ambulatory Surgi-Center, a FASC located at 3121 Kings Highway, Brooklyn (Kings County) and is a member of East Side Endoscopy, LLC, the approved operator of an ambulatory surgery center located at 380 Second Avenue, New York (New York County).

Administrative Service Agreement

The applicant has submitted an executed administrative services agreement, the terms are summarized below:

<i>Date:</i>	December 8, 2009
<i>Facility:</i>	Roosevelt SC, L.L.C.
<i>Contractor:</i>	Cataract and Laser Center Partners, L.L.C. d/b/a Ambulatory Surgery Centers of America (ASCOA)
<i>Services Provided:</i>	Assist project description, 18 month pro-forma financial feasibility study including projected operating costs and revenues; recommend physical space specifications, arrange for architect to develop plans, assist facility inspections and reviews; assist in securing necessary permits, licenses and certifications to operate facility; advise on the purchase of equipment and supplies; help in securing project financing; assist in the development of policies and procedures; coordinate legal counsel regarding organizational documents, licensure, initial and continuing operations; assist in implementing, billing and collection procedures, accounts receivable and payable procedures; assist in the development of fee schedules and payor contracts; advise with respect to any joint venture agreements; advise in the development of forms, policies, and procedures to comply with the law; assist in utilization management, quality assurance procedures and software management systems; assist in human resource administration; assist in developing budgets, accounting procedures, controls, reporting systems, and timely reports.
<i>Term:</i>	6 years – renews for one additional five (5) year term and then automatically renews for three successive three (3) year terms
<i>Fee:</i>	Annual Fee \$500,000 (1/12 to be paid monthly = \$41,666.67) Expense reimbursement not to exceed \$100,000 per year after the first 18 months

Class B members' of Roosevelt SC are members of Cataract and Laser Center Partners, L.L.C. d/b/a Ambulatory Surgery Centers of America (ASCOA), the administrative servicer agreement provider. ASCOA is a national provider of consulting and administrative services to ambulatory surgery centers.

Lease Rental Agreement

The applicant has submitted a letter of interest to lease the proposed site, the terms are summarized below:

- Premises:* 18,000 gross square feet located at 224 W. 57th Street, 3rd Floor, New York, New York
- Landlord:* M1 Real Estate
- Lessee:* Roosevelt SC, L.L.C.
- Term:* 1-16 years at \$1,170,000 per year (\$65.00 per sq. ft) plus 2.85% increase each year beginning in the 2nd
- Provisions:* Utilities

The applicant has provided an affidavit stating the proposed lease is an arm's length arrangement; and has provided realtor letters attesting to the rental rate as being of fair market value.

Total Project Cost and Financing

Total project costs for renovation and acquisition of moveable equipment is estimated at \$9,446,036, broken down as follows:

Renovation & Demolition	\$5,096,000
Design Contingency	509,600
Construction Contingency	509,600
Architect/Engineering Fees	509,600
Other Fees	40,000
Movable Equipment	2,621,761
Telecommunications	21,840
Interim Interest Expense	83,977
CON Application Fee	2,000
CON Processing Fee	<u>51,658</u>
Total Project Cost	<u>\$9,446,036</u>

Project costs are based on a July 1, 2011 start date with a six month construction period.

The applicant's financing plan appears as follows:

Cash Equity (Applicant)	\$1,846,036
Bank Loan (6.78%, 7-year term)	4,000,000
Bank Loan (4.0% 1-Month Libor plus 350 basis points, 7-yr term)	<u>3,600,000</u>
Total	<u>\$9,446,036</u>

A letter of interest has been provided from TD Bank.

Operating Budget

The applicant has submitted first and third year operating budgets, in 2010 dollars, as summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$7,566,505	\$8,027,305
Expenses:		
Operating	\$4,226,079	\$4,437,720
Capital	<u>2,516,433</u>	<u>2,460,121</u>
Total Expenses	<u>\$6,742,512</u>	<u>\$6,897,841</u>

Net Income or (Loss)	\$823,993	\$1,129,464
Utilization: (procedures)	6,096	6,467
Cost Per Procedure	\$1,106.06	\$1,066.62

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

Medicaid Fee-For-Service	2.0%
Medicaid Managed Care	3.0%
Medicare Fee-For-Service	25.0%
Medicare Manage Care	2.0%
Commercial Fee-For-Service	15.0%
Commercial Manage Care	50.0%
Private Pay	1.0%
Charity	2.0%

Expense and utilization assumptions are based on the combined experiences of: Roosevelt SC member physicians, Ambulatory Surgery Centers of America, and Beth Israel Ambulatory Care Services Corporation. The applicant has submitted physician referral letters in support of the utilization projections. The breakeven point is approximately 85.3% of projected utilization, or 5,200 procedures.

Capability and Feasibility

The total project cost of \$9,446,036 will be satisfied by the proposed members contributing \$1,846,036 from their personal resources, with the balance of \$7,600,000 being provided through two loans from TD Bank at the above stated terms.

Working capital requirements are estimated at \$1,149,640, which appears reasonable based on two months of third year expenses. The proposed members' will provide the working capital from their own financial resources. Presented as BFA Attachments A & B are the applicant's personal net worth statements and the 2009 certified financial summary for Beth Israel Medical Center and Affiliates. A review of attachments A & B indicates there are sufficient liquid resources to meet the equity and working capital requirements. Presented as BFA Attachment C is Roosevelt SC pro-forma balance sheet that shows operations will start off with \$2,995,676 in positive equity.

Roosevelt SC projects an operating excess of \$823,993 and \$1,129,464 in the first and third years, respectively. Revenues are based on current and projected federal and state governmental reimbursement methodologies, while commercial payers are based on the experience of the applicant.

Presented as BFA Attachments E & F are the 2009 certified financial summaries for Syracuse ASC, LLC d/b/a Specialty Surgery Center of Central New York and Melville Surgery Center, LLC, which some of the Class B members also have membership in. Both entities had positive working capital and positive net assets. For the combined periods 2008 and 2009 Syracuse ASC generated an average net income of \$2,786,598, and Melville Surgery Center's average net income during this same period was \$3,153,888.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

- Third Floor (11,300 SF renovation)

The third floor will consist of 11,300 SF of renovation and will include a reception/waiting area, public toilet rooms, administrative offices, interview room, exam room, staff lounge, staff locker rooms, staff toilet rooms, (4) operating rooms, PACU area with (9) beds, (1) private recovery room, phase II recovery / pre-op with (7) beds, (1) private pre-op room, nurse station, patient toilet rooms, sterilizer room, soiled utility room, clean workroom, and other storage rooms.

There will be an indoor patient drop-off and pick-up area at street level, with access to the elevators. There will be an elevator capable of carrying a stretcher and attendants. The reception area will have a capacity of about 45 seats, two check-in stations, and accessible toilets. The adjacent clerical area will include office space for billing, record keeping, and other administrative functions, plus a separate office for the administrator. A locked storage room will be provided for patient records. An 8' wide restricted corridor will be provided with access to all areas within the surgery suite. There will be a sterilizer room and soiled utility room between two of the operating rooms, arranged for direct access from the sterilizer room into each OR. There will be an additional clean workroom, with a sterilizer, located with direct access to those OR's which are not adjacent to the sterilizer room. The four Class C operating rooms will have approximately 400 square feet of floor area each and will be equipped with piped oxygen, suction, nitrous oxide, and waste anesthesia gas evacuation. Scrub sinks will be provided convenient to the OR entrances. Instruments will be washed prior to sterilizing in the soiled utility room. This room will also incorporate a flushing sink and a hand-washing sink. Storage rooms for clean and sterile supplies and for equipment will be provided directly accessible from the surgical corridor.

Environmental Review

The Department has deemed this project to be a TYPE I Action and the lead agency shall be the county of New York or the authority having jurisdiction.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement of Proposed Members of Roosevelt Surgery Center, LLC
BFA Attachment B	Financial Summary for 2009, Beth Israel Medical Center and Affiliates
BFA Attachment C	Pro Forma Balance Sheet of Roosevelt Surgery Center, LLC
BFA Attachment D	Organizational Chart of Roosevelt Surgery Center, LLC
BFA Attachment E	Financial Summary for 2009, Syracuse ASC, LLC d/b/a Specialty Surgery Center of Central New York
BFA Attachment F	Financial Summary for 2009, Melville Surgery Center, LLC
BFA Attachment G	Establishment Checklist for Ambulatory Care Sites
BHFP Attachment	Map

Supplemental Information

Outreach

Below are presented summaries of responses by hospitals to letters from the Department asking for information on the impact of the proposed ambulatory surgery center (ASC) in their service areas. There follows a summary of the applicant's response to DOH's request for information on the proposed facility's volume of surgical cases, the sources of those cases, and on how staff will be recruited and retained by the ASC.

Facility: St. Luke's-Roosevelt Hospital Center
Roosevelt Hospital Division
1000 Tenth Avenue
New York, NY 10019

St. Luke's-Roosevelt Hospital Center (SLRHC) responded with a letter stating that it "strongly supports" the proposed ASC. The hospital stated that development of the proposed facility will permit the transfer or outpatient surgical procedures from SLHRC's operating rooms, thereby freeing much-needed operating room time for the performance of inpatient surgical procedures. SLHRC expects this to have a positive impact on the quality of surgical care, for the patients of the applicant physicians as well as for the community at large, where there is an ongoing increase in the number of procedures for which the preferred locus of care is the freestanding ASC setting.

Facility: Lenox Hill Hospital
100 East 77th Street
New York, NY 10021

No response.

Facility: Memorial Hospital for Cancer and Allied Diseases
1275 York Avenue
New York, NY 10021

No response.

Facility: New York Presbyterian Hospital
New York Weill Cornell Center
525 East 68th Street
New York, NY 10021

No response.

Facility: The Hospital for Special Surgery
535 East 70th Street
New York, NY 10021

No response.

Supplemental Information from Applicant

- Need and Sources of Cases

The applicant states that some 30 percent of its projected cases are currently performed in the offices of the 26 participating physicians. The majority of the remainder will come from cases performed at St. Luke's Roosevelt (which supports the project) and its affiliates, as well as from St. Vincent's Catholic Medical Centers (which was still operational at the time this application was developed). The final portion, which will constitute less than 20 percent of the facility's projected caseload of 6,467 procedures, will come from other hospitals in New York City where participating physicians practice. The applicant also expects that the need reflected in an explosive and continuous growth of ambulatory surgery in New York County and New York State will be an ongoing source of cases for the facility. The applicant also intends to operate a formal outreach program directed at members of the local community, including local physicians. The proposed ASC will dedicate a portion of its revenues for the implementation of this program and for charitable care.

- Staff Recruitment and Retention

The applicant states that initial recruitment will be of selected staff currently employed by the member physicians in their private practices, particularly the nursing and technical staff. Staff will also be recruited through accredited schools, newspaper advertisements, training programs, local recruiters and, if needed, job fairs. Competitive salaries and benefits are expected to aid in the recruitment and retention of skilled employees, as are a positive work environment and flexible working hours. The applicant also expects that nurses and technicians currently employed by hospitals who choose to augment their income will be able to find supplemental employment at the proposed ASC because of the flexible work schedule, without cutting back on or abandoning their hospital employment.

- Office-Based Cases

As noted, some 30 percent of the proposed ASC's cases are currently performed in the office-based setting.

OHSM Comment

The absence of opposition from hospitals in the proposed service area provides no basis for reversal or modification of the recommendation for five-year limited life approval of the proposed ASC based on public need, financial feasibility and operator character and competence. The letter of support from St. Luke's-Roosevelt Hospital Center reinforces the recommendation for approval.



Public Health and Health Planning Council

Project # 101159-E

**Lattimore Road Surgicenter, Inc.
d/b/a Lattimore Community Surgicenter**

County: Monroe (Rochester)
Purpose: Establishment

Program: Ambulatory Surgery Center
Submitted: June 25, 2010

Executive Summary

Description

GRHS, LLC, a to-be formed not-for-profit New York limited liability company, requests approval to be established as the new owner of an existing multi-specialty, free-standing ambulatory surgery center (FASC). The current facility is operated by Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter (LRS) in leased space in Suite 170 at 125 Lattimore Road, Rochester.

GRHS will have as its sole member, GRHS Foundation, Inc. ("Foundation") an existing New York not-for-profit corporation. The Foundation is a subsidiary of Rochester General Health System ("System", formerly ViaHealth). The System is the sole member and passive parent of the Foundation as well as of Rochester General Hospital (RGH) and other affiliates.

Ownership of the existing facility before and after the change proposed is as follows:

<u>Current</u>	<u>Proposed</u>
Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter	GRHS, LLC d/b/a Lattimore Community SurgiCenter
MEMBERS: -- Dr. Michael E. Pichicero (50.746%) -- Dr. Hugh Riegler (24.627%) -- Dr. Joseph Scibetta (24.627%)	MEMBERS: -- GRHS Foundation, Inc. (100%)

DOH Recommendation
Contingent approval for a 5-year limited life.

Need Summary

GRHS proposes to become the new operator of the Lattimore Community Surgicenter which is an existing multi-specialty, freestanding ambulatory surgery center with four operating rooms and two procedures rooms. The existing center performed 2,376 procedures in 2009.

Program Summary

The applicant will enter into a transfer and affiliation agreement for emergency and back-up services with Rochester General Hospital, which is six miles or 18 minutes in travel time from the Center.

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

Financial Summary

There are no project costs associated with this proposal. The purchase price for 100% ownership interest in the FASC is \$1,000,000. The payment will be made upon closing.

Budget:	<i>Revenues:</i>	\$ 7,412,493
	<i>Expenses:</i>	<u>6,309,238</u>
	<i>Gain/(Loss):</i>	\$ 1,103,255

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

The Finger Lakes Health System Agency recommends approval of this application.

Office of Health Systems Management

Approval for a limited life of 5 years from the date of issuance of an operating certificate is recommended contingent upon:

1. Submission of a signed agreement with an outside independent entity satisfactory to the Department to provide annual reports to the Department of Health beginning in the second year of operation. Said reports shall include:
 - Data showing actual utilization including procedures;
 - Data showing breakdown of visits by payor source;
 - Data showing number of patients who need follow-up care in a hospital within seven days after ambulatory surgery;
 - Data showing number of emergency transfers to a hospital;
 - Data showing percentage of charity care provided, and
 - Number of nosocomial infections recorded during the year in question. [RNR]
2. Submission by the governing body of the ambulatory surgery center of an organizational Mission Statement, which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations such as racial and ethnic minorities, women, and handicapped persons and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
3. Submission of a statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with consultation of the legal counsel, and it is concluded that proceeding with the proposal is acceptable. [RNR]
4. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
5. Submission of an executed service agreement, acceptable to the Department. [HSP]
6. Submission of a Certificate of Assumed Name that is acceptable to the Department. [CSL]
7. Submission of an executed Assignment and Direction Agreement that is acceptable to the Department. [CSL]
8. Submission of the merger documents that are acceptable to the Department. [CSL]
9. Submission of an executed Articles of Organization that is acceptable to the Department. [CSL]
10. Submission of an Operating Agreement that is acceptable to the acceptable to the Department. [CSL]
11. Submission of a proposed stock certificate that is acceptable to the Department. [CSL]
12. Submission of an assignment of the Services Agreement that is acceptable to the Department. [CSL]
13. Submission of a fully executed Services Agreement that is acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

GRHS requests approval to be established as the new operator of Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter located at 125 Lattimore Road, Rochester, New York.

Analysis

GRHS, LLC requests approval to be established as the new owner of the existing multi-specialty, free-standing ambulatory surgery center (FASC) that is currently operated by Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter (LRS).

The existing FASC is located at 125 Lattimore Road, Rochester, New York, 14620 and is certified to provide multi-specialty ambulatory surgery services in four operating rooms and two procedure rooms. The location and size of the facility will remain unchanged as a result of this application.

The center will have a transfer and affiliation agreement with Rochester General Hospital for emergency and backup services.

All services will be offered to those in need of care regardless of age, sex, sexual orientation, race, creed, religion, disability, source of payment or any personal characteristics. The ability to pay will not be a factor in the process of accepting patients.

<u>Exiting Freestanding ASCs – Monroe County</u>	
<u>Facility</u>	<u>2009 Utilization</u>
Brighton Surgery Center	6,640
Greater Rochester Digestive	NR
Lattimore Community Surgicenter	2,376
Linden Oaks Surgery Center	NR
Lindsey House Surgery Center	600
Westfall Surgery Center	15,111

Source: SPARCS

Recommendation

From a need perspective, contingent approval is recommended for a limited life of five years.

Programmatic Analysis

Background

This existing freestanding multi-specialty ambulatory surgery center provides surgical services utilizing four operating rooms and two procedure rooms. There will be no changes to services concurrent with approval of this application.

Staffing will consist of 30.25 FTEs including registered nurses and technicians, under the supervision of the Center's medical director, Francis Catanzaro. Staffing is expected to increase to 32.1 FTEs by the third year of operation. Anesthesia services will be provided by board-certified or board-eligible anesthesiologists.

Emergency, in-patient and back-up support services will be provided by Rochester General Hospital which is six miles and eighteen minutes in travel time from the Center. A letter of intent has been executed. An answering service, with access to the surgeon who performed the surgery or his/her on call physician, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform with generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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. In addition, the applicant indicates the Center intends to receive accreditation from either the Accreditation Association of Ambulatory Health Care or Joint Commission on Accreditation of Healthcare Organizations within two years after opening.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. Characteristics of the governing body reflect responsiveness to community need in the use of a patient satisfaction measurement tool that will provide continuous, ongoing feedback to the organization for the total quality management improvement program and planning discussions. Input from members of the medical staff and patients will provide the basis for additional services and free or reduced fee care to eligible patients.

Character and Competence

The Board of Directors is as follows:

<u>Name</u>	<u>Office Held</u>
Mark Clement	President
Hugh Thomas	Secretary
Richard Gangemi, MD	Director

Staff from the Division of Certification and Surveillance reviewed the disclosure information submitted by the entire Board of Directors 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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which 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

Background

The applicant corporation, GRHS, proposes to purchase the operation of the facility for \$1,000,000. Currently, Rochester General Hospital (RGH) has an executed share purchase agreement with Lattimore Road Surgicenter (LRS), which is conditioned on the final certificate of need approval for the change of ownership and operation of the center. There are three steps that need to be undertaken in order to effectuate the transaction, and they are as follows:

- RGH assigns to Foundation its right to receive shares of LRS and directs the seller to deliver the shares to the foundation.
- Shares are delivered to the foundation and LRS becomes a wholly owned subsidiary of the foundation.

- Foundation as the owner of all the shares of LRS and the sole member of GRHS causes LRS to Merge into GRHS with the surviving entity being GRHS as the owner of all the FASC assets. At no time will Article 28 FASC operations be conducted by the foundation.

Presented as BFA Attachment A is the financial summary for the Lattimore Road Surgicenter, Inc., d/b/a Lattimore Community Surgicenter (LRS). Lattimore Community Surgicenter, Inc. has shown a positive average equity and working capital position for fiscal year 2008-2009 and an average net loss of \$328,225 for the same fiscal period. The losses were attributed to expenses for the service fees paid to Lattimore Services Organization, LLC (LSO) being \$680,000 and also due to the huge volume decline at the center due to the mass exodus of physicians to Strong Memorial and then to Strong Memorial's surgery center that opened in September 2009 right across the street from the center. Due to the volume decline and fixed costs remaining, the center experienced a loss. The solution to the loss came when RGH became involved. First, RGH purchased LSO in late 2009 and reduced the service fees paid from \$680,000 to \$500,000 per year, a \$180,000 savings. Next, RGH sold off 29% of LSO to 9 practicing surgeons who then started bringing their cases to the center, thus increasing revenue and volume in 2010. With the new physician involvement and the management expertise from RGH on the operating side, post CON approval, the facility is expected to once again make a profit. This can be evidenced by reviewing the interim 2010 financial statements for Lattimore Community Surgicenter, which shows a reduction in losses from 2009 to 2010 of over \$250,000, which is projected to become positive by the first year of operations.

Administrative Services Agreement

The applicant has submitted executed administrative services agreement with Lattimore Services Organization, LLC. This is summarized as follows:

<i>Dated:</i>	December 4, 2009
<i>Provider:</i>	Lattimore Services Organization, LLC
<i>Facility:</i>	Lattimore Road Surgicenter, Inc., d/b/a Lattimore Community Surgicenter
<i>Term:</i>	25 Years with automatic renewal of 5-year term
<i>Services Provided:</i>	The company shall provide Surgicenter with overall business (nonmedical) administration of the ASC (Ambulatory Surgery Center) facility and the ASC business, including maintenance, replacement and repair of the ASC facility and ASC equipment. The company shall provide Surgicenter with all clerical, accounting, bookkeeping, computing, payroll administration, transcription and all other services necessary or appropriate to the administration of the ASC business. Also the company shall provide Surgicenter with administrative services and personnel necessary to enable the Surgicenter to perform on a timely basis all nonmedical aspects of health care contracts of Surgicenter relating to the ASC facility and shall determine compensation for all such personnel.
<i>Compensation:</i>	\$500,000 per year with annual negotiations of the fee.

There is a common ownership between the administrative services agreement provider and the applicant. Lattimore Services Organization, LLC is 71% owned by RGH, which is a subsidiary of the System, which GRHS is also a subsidiary of.

Share Purchase Agreement

The subject transaction will be completed under the terms of the Share purchase agreement summarized below:

<i>Seller:</i>	Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter, Inc. and Dr. Michael E. Pichichero, Dr. Hugh Riegler and Dr. Joseph Scibetta.
<i>Purchaser:</i>	The Rochester General Hospital for GRHS, LLC.
<i>Purchased Assets:</i>	Equipment, contracts, agreements, inventory, security deposits, supplies, records, files, intellectual property, computer software, manufacturer's warranties, and other information relating to operation of the facility.
<i>Liabilities Assumed:</i>	Essentially all liabilities related to operation of the business created after the change in ownership
<i>Purchase Price:</i>	\$1,000,000 at closing.

The seller will retain all cash and accounts receivable prior to closing and will remain responsible for all liabilities created prior to closing, including audit liabilities. There are no known significant audit liabilities.

Real Property Lease

The applicant will occupy the existing leasehold of approximately 13,889 square feet under the terms of the agreements summarized below:

Dated: November 2008/Amended May 15, 2010
Lessor: Lattimore Road Associates, LLC
Lessee/Current: Lattimore Road Surgicenter, Inc.
Lessee/Successor: GRHS, LLC
Term: From October 1, 2008 to September 30, 2013 with 1 5- year renewal period
Rental: \$119,862 per annum (\$8.63 per square foot) 161,529 per annum for the renewal period (\$11.63)
Provisions: The lessee shall be responsible for taxes, maintenance and utilities.
Type: Arms-Length

All necessary approvals to the lease and assignments have been provided and documentation of reasonableness of the proposed per square foot rental has been submitted.

The applicant has submitted an affidavit indicating that the lease arrangement will be an arm's length lease arrangement, since there is no relationship between the landlord and the tenant.

Estimated Operating Budget

The applicant has submitted an operating budget for the first and third years of operation, which is summarized below:

	<u>First Year</u>	<u>Third Year</u>
Revenue		
Medicare	498,492	613,403
Medicare Managed Care	205,227	252,535
Medicaid	84,065	103,444
Medicaid Managed Care	61,353	75,496
Private	14,380	17,695
Commercial	1,388,173	1,708,170
Commercial Managed Care	4,182,352	5,146,454
All Other	<u>978,449</u>	<u>1,203,998</u>
Total Revenue	<u>\$7,412,493</u>	<u>\$9,121,195</u>
Expense		
Operating	\$5,792,766	\$6,872,310
Capital	<u>516,472</u>	<u>538,460</u>
Total Expense	<u>\$6,309,238</u>	<u>\$7,410,770</u>
Net Income	<u>\$1,103,255</u>	<u>\$1,710,425</u>
Procedures	3,997	4,619
Cost per Procedure	\$1,578.50	\$1,604.41

Utilization by payor source is anticipated as follows:

	<u>Year One and Year Three</u>
Medicare	6.73%
Medicare Managed Care	2.45%
Medicaid	1.25%
Medicaid Managed Care	1.03%
Private	1.00%
Commercial	26.90%
Commercial Managed Care	45.43%
All Other	13.21%
Charity Care	2.00%

The budget is based on the prior operation of the subject facility. Reimbursement is based on appropriate products of ambulatory care for both Medicaid and Medicare reimbursement and all other sources of revenue reflect current reimbursement methodologies.

Utilization is anticipated to increase over the facility's current experience due to new cases being brought to the facility by 9 physicians who participate in the ownership of Lattimore Services Organization, LLC, who have a 29% membership interest in the operations of the facility.

These physicians have indicated their intent to perform surgery at the site, which lends support to the projections.

Managed care utilization reflects current trends at the facility and anticipates future contracts with other managed care providers in the area.

Capability and Feasibility

The issue of capability is centered on the applicant's ability to offset the purchase price and initiate operations in a financially viable position. The entire purchase price will be provided through accumulated funds from Rochester General Health System. Please See BFA Attachment C the certified 2008-2009 financial statements for Rochester General Health System which shows sufficient funds.

The applicant projects a need for approximately \$1,051,540 for working capital, an amount that appears reasonable. The working capital will be provided through accumulated funds of the facility and if these are not sufficient, GRHS Foundation and Rochester General Hospital will provide the remaining balance. Presented as BFA Attachment E is a pro-forma balance sheet for the applicant corporation reflecting the noted working capital.

The issue of feasibility is centered on the applicant's ability to offset ongoing expense with revenue. The submitted budget indicates a net income of \$1,103,255 in year 1 and \$1,710,425 in Year 3. Revenues are based on appropriate products of ambulatory care for both Medicaid and Medicare reimbursement and all other sources of revenue reflect current trends in the area.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Certified financial statement 2008-2009 Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter (LRS)
BFA Attachment B	Interim Financial Statement 2010 Lattimore Road Surgicenter, Inc. d/b/a Lattimore Community Surgicenter (LRS).
BFA Attachment C	Certified Financial Statement 2008-2009 Rochester General Health System
BFA Attachment D	Interim Financial Statement 2010 Rochester General Health System
BFA Attachment E	Pro Forma Balance Sheet- GRHS, LLC d/b/a Lattimore Community Surgicenter
BFA Attachment F	GRHS, LLC d/b/a Lattimore Community Surgicenter Organizational Chart
BFA Attachment G	Establishment Checklist



Public Health and Health Planning Council

Project # 101160-E

**West ASC, LLC
d/b/a Camillus Surgery Center**

**County: Onondaga (Camillus)
Purpose: Establishment**

**Program: Ambulatory Surgery Center
Submitted: June 25, 2010**

Executive Summary

Description

West ASC, LLC d/b/a Camillus Surgery Center, an existing limited liability company, is requesting permission to become the new operator of Holdings, LLC d/b/a Harrison Center Outpatient Surgery, located at 5700 West Genesee Street, Suite 11, in Camillus. The multi-specialty ambulatory surgery center is an extension clinic of the main site located at 550 Harrison Street, Syracuse. The main site is not part of this application and will remain Holdings, LLC d/b/a Harrison Center Outpatient Surgery.

There are 23 practitioners at the Harrison Center Outpatient Surgery extension clinic in Camillus, but only 13 will become proposed members of West ASC, LLC. The remaining 10 practitioners are currently on the medical staff that performs procedures at the Center, and most have offices in the same building occupied by the Center. All were offered the same opportunity to become proposed members of West ASC, LLC.

DOH Recommendation

Contingent approval for a 5-year limited life.

Need Summary

The existing Harrison Center Outpatient Surgery extension clinic had 4,309 patients in 2009.

Program Summary

The applicant will enter into a transfer and affiliation agreement for emergency and back-up services with Community General Hospital, which is eight miles or 15 minutes in travel time from the Center.

Based on the information reviewed, staff have found nothing which would reflect adversely upon the

applicant's character and competence or standing in the community.

Financial Summary

There are no project costs associated with this application. The Asset Purchase price is \$1,400,000 plus tangible Medical Supplies and Devices at time of closing, which is estimated at \$100,000 and will be financed by a bank loan for \$1,147,860 at 6.75% over a 7-year term, with the remaining \$352,140 from proposed member's equity.

Budget:	<i>Revenues:</i>	\$ 4,135,534
	<i>Expenses:</i>	<u>3,327,730</u>
	<i>Gain/(Loss):</i>	\$ 807,804

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

Architectural Summary

This project is for Establishment action only, therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval for a limited life of 5 years from the date of issuance of an operating certificate is recommended contingent upon:

1. Submission of a signed agreement with an outside independent entity satisfactory to the Department to provide annual reports to the Department of Health beginning in the second year of operation. Said reports shall include:
 - Data showing actual utilization including procedures;
 - Data showing breakdown of visits by payor source;
 - Data showing number of patients who need follow-up care in a hospital within seven days after ambulatory surgery;
 - Data showing number of emergency transfers to a hospital;
 - Data showing percentage of charity care provided, and
 - Number of nosocomial infections recorded during the year in question. [RNR]
2. Submission by the governing body of the ambulatory surgery center of an organizational Mission Statement, which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations such as racial and ethnic minorities, women, and handicapped persons and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
3. Submission of the statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with consultation of the legal counsel, and if it is concluded that proceeding with the proposal is acceptable. [RNR]
4. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
5. Submission of a signed statement confirming staff of the Center will be separate and distinct from staff of other entities. [HSP]
6. Submission of a signed statement confirming signage that clearly denotes the center is separate and distinct from other adjacent entities. [HSP]
7. Submission of a signed statement confirming the entrance to the center does not disrupt any other entity's clinical program space. [HSP]
8. Submission of signed statement confirming the clinical space will be used exclusively for this purpose. [HSP]
9. Submission of closure plan, acceptable to the Department, for Holdings, LLC. [HSP]
10. Submission of an executed loan commitment for the purposes of the asset purchase acceptable to the Department of Health. [BFA]
11. Submission of an executed working capital loan commitment acceptable to the Department of Health. [BFA]
12. Submission of a photocopy of the applicant's revised, fully executed and dated Amended and Restated Articles of Incorporation, which must be acceptable to the Department. [CSL]
13. Submission of a photocopy of a fully executed and dated amendment to the applicant's Operating Agreement, which must be acceptable to the Department. [CSL]
14. Submission of a statement as to whether the applicant's members who are also either direct or indirect members of Holdings, LLC will be maintaining their membership interest therein or withdrawing therefrom, which must be acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

West ASC, LLC requests approval to purchase from Holdings, LLC the Article 28 multi-specialty ambulatory surgery center, Harrison Center Outpatient Surgery, located at 5700 West Genesee St, Camillus, NY.

The applicant plans to continue to operate a multi-specialty ASC at the same location under the name "Camillus Surgery Center" with the same medical staff that currently works at the facility.

The Harrison Center for Outpatient Surgery provides the following surgical services:

Orthopedics	GYN	Plastic Surgery
ENT	Ophthalmology	Endoscopy
Podiatry	General Surgery	

The facility has three operating rooms and one procedure room. The Harrison Center has had the following utilization:

<u>Annual Utilization</u>	
2008	3,869
2009	4,309

From 2008 to 2009, the number of patients increased by 11.3 percent.

<u>Freestanding ASC Utilization – Central New York</u>	<u>County</u>	<u>2008</u>	<u>2009</u>
Digestive Disease Center of CNY, LLC	Onondaga	5,293	8,174
Endoscopic Procedure Center	Onondaga	4,243	4,580
Harrison Center Outpatient Surgery	Onondaga	3,869	4,309
North Country Orthopedic ASC	Jefferson	1,898	1,811
Specialists' One-Day Surgery	Onondaga	9,240	10,53
Specialty Surgery Center of CNY	Onondaga	6,905	7,526
Syracuse Endoscopy Associates	Onondaga	6,133	5,751

SOURCE: SPARCS

Recommendation

From a need prospective, contingent approval is recommended for a limited life of five years.

Program Analysis

West ASC, a limited liability company comprised of thirteen members, requests approval to purchase Holdings, LLC, an established diagnostic and treatment center that is certified as an ambulatory surgery center. The facility will operate as Camillus Surgery Center, located at 5700 West Genesee Street, Suite 11, Camillus.

There will be no changes to services at this freestanding multi-specialty center. The list of procedures to be provided is consistent with the specialties of the physicians that have expressed interest in practicing at this Center. The Center intends to review this list annually and as needed to determine the appropriateness of adding new procedures consistent with individual physician expertise.

Staffing will consist of 16 FTEs, including registered nurses and technicians, under the supervision of the Center's medical director, Mark Potenza. Staffing is expected to increase to 18 FTEs by the third year of operation. Anesthesia services will be provided by board-certified or board-eligible anesthesiologists.

Emergency, in-patient and back-up support services are expected to be provided by Community General Hospital, which is eight miles and fifteen minutes in travel time from the Center. An answering machine will provide information on how patients can access their surgeons during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform with generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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. In addition, the applicant indicates the Center intends to receive accreditation from either the Accreditation Association of Ambulatory Health Care or Joint Commission on Accreditation of Healthcare Organizations within two years after opening.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. Characteristics of the governing body reflect responsiveness to community need in the use of a patient satisfaction measurement tool that will provide continuous, ongoing feedback to the organization for the total quality management improvement program and planning discussions. Input from members of the medical staff and patients will provide the basis for additional services and free or reduced fee care to eligible patients.

Character and Competence

The Managing Members, each with ten units, are as follows:

Sargon Bebla, MD
Justin Beabes, DPM
William Dutch, DPM
Freddie Edelman, DPM
James Farrell, DPM
Robert Neulander, MD
Ovid Neulander, MD
Michael Paciorek, MD
Michael Parker, MD
Mark Potenza, MD
Samuel Rameas, DPM
Dennis Resetarits, MD
Chad Rounds, DPM

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted by the entire Board of Directors 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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases. Dr. Ovid Neulander disclosed voluntary license restriction during an Office of Professional Medical Conduct investigation.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

The proposed members of West ASC, LLC are all board certified physicians and are as follows:

<u>Proposed Members</u>	<u>Membership Interest</u>
Dr. Dennis Resetarits	.076923
Dr. Fred Edleman	.076923
Dr. James Farrell	.076923
Dr. Justin Beabes	.076923
Dr. Mark Potenza	.076924
Dr. Michael Paciorek	.076923
Dr. Michael Parker	.076923
Dr. Ovid Neulander	.076923
Dr. M. Robert Neulander	.076923
Dr. Samuel Rameas	.076923
Dr. Sargon Bebla	.076923
Dr. Chad Rounds	.076923
Dr. William Dutch	.076923

The following proposed members are current members of Holdings, Inc.: Dr. Dennis Resetarits, Dr. James Farrell, Dr. Mark Potenza, Dr. Michael Parker, Dr. Ovid Neulander, and Dr. Robert Neulander. Dr. Freddie Edelman is a shareholder of Harrison Center Outpatient Surgery, Inc., which is a member of Holdings, LLC.

Asset Purchase Agreement

The change in operational ownership of the multi-specialty ambulatory surgery center will be effectuated in accordance with an executed asset purchase agreement, the terms of which are summarized below:

<i>Date:</i>	May 12, 2010
<i>Seller:</i>	Holdings, LLC
<i>Buyer:</i>	West ASC, LLC
<i>Assets Purchased:</i>	All assets used in connection with Camillus Surgery Center, free and clear of all liens, claims and encumbrances except for those related to Assumed Equipment Liabilities.
<i>Liabilities Assumed:</i>	Those associated with assets purchased after closing date.
<i>Price:</i>	\$1,400,000 plus the sellers actual cost of current and usable Medical Supplies and Devices on the books at time of closing. Total purchase price payable at 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.

Lease Agreement

The applicant will lease approximately 13,080 square feet of space on the ground level of 5700 West Genesee Street, Camillus, NY under the terms of the executed lease agreement summarized below:

<i>Date:</i>	June 1, 2010
<i>Landlord:</i>	Medical Center West, LLC
<i>Tenant:</i>	West ASC, LLC
<i>Term:</i>	10 Years with two five year renewal options
<i>Rental:</i>	\$261,600(\$20.00 per sq. ft) for the first year with an annual increase of 3% for the first six years compounded annually. The last four years will remain constant with no increase.
<i>Provisions:</i>	None

The applicant has indicated that the lease will be a non-arm's length lease arrangement, and has submitted letters from real estate brokers attesting to the reasonableness of the per square foot rental. Drs. Ovid Neulander and M. Robert Neulander own a 7.79%, and an 8.89% membership interest, respectively in Medical Center West, LLC.

Operating Budget

The applicant has submitted an operating budget in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$3,901,941	\$4,135,534
Expenses:		
Operating	\$2,706,994	\$2,875,184
Interest	87,413	62,635
Depreciation and Rent	<u>373,980</u>	<u>389,911</u>
Total Expenses	\$3,168,387	\$3,327,730
 Net Income	 <u>\$733,554</u>	 <u>\$807,804</u>
 Utilization: (procedures)	 2,895	 3,068
Cost Per Procedure	\$1,094.43	\$1,084.66

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

	<u>First Year and Third Year</u>
Commercial Insurance-Fee-For-Service	77.5%
Commercial Insurance-Managed Care	2.0%
Medicare Fee-For-Service	10.5%
Medicaid Fee-For-Service	2.0%
Self Pay	6.0%
Charity Care	2.0%

Expense and utilization assumptions are based on the combined historical experience of the Harrison Center Outpatient Surgery extension site at 5700 West Genesee St. in Camillus.

Capability and Feasibility

There is no project cost associated with this application. The Purchase Price of \$1,400,000 plus the estimated value of current medical supplies and devices at time of closing of \$100,000 will be satisfied by a bank loan for \$1,147,860 at 6.75% over a seven year term, with the remaining \$352,140 from proposed members equity. A letter of interest has been submitted by the applicant from First Niagara Bank.

Working capital requirements, estimated at \$528,065, appear reasonable based on two months of first year expenses. The applicant will finance \$225,000 via a loan at an interest rate 6.75% for a five year term, for which a letter of interest has been provided. The remainder, \$303,065, will be provided as equity by the proposed members. Presented as BFA Attachment A, is a summary of net worth statement of the proposed members of West ASC, LLC, which indicates the availability of sufficient funds for the stated levels of equity. Drs. Justin Beabes and Chad Rounds have submitted a bank letter of interest for a personal loan to cover their equity requirements based on their proposed membership percentages. Presented as BFA Attachment B, is the pro forma balance sheet of West ASC, LLC d/b/a Harrison Center Outpatient Surgery as of the first day of operation, which indicates positive member's equity position of \$655,205.

As shown on BFA Attachment C, Financial Summary of Holdings, LLC d/b/a Harrison Center Outpatient Surgery, the D&TC maintained average positive working capital of \$161,054 for 2008-2009 positive members' equity of \$2,178,512, and \$2,142,984 for 2009 and 2008, respectively and experienced net losses from operations of \$112,428 and \$86,872 for 2009 and 2008, respectively. Also shown on BFA Attachment C, is the draft statement from operations as of October 31, 2010, which shows a net loss of \$824,011.

The 2008 and 2009 operational losses were mainly due to lower reimbursement rates than expected and an increased anesthesia expense and are currently being corrected through renegotiation of payer contracts and service contracts. Holdings, LLC has recently sold the uptown Harrison extension clinic site to University Hospital SUNY Health Science Center under CON 101123, which went to Public Health Council on October 26, 2010.

The submitted budget indicates a net income of \$733,554 and \$807,804 during the first and third years of operation, respectively. The Medicaid outpatient reforms have been approved by the Federal government and implemented to change the reimbursement methodology as of September 1, 2009, and is phased in over a four year period. Reimbursement is determined on an average rate by freestanding ambulatory surgery centers and region enhanced by the applicable service intensity weight (SIW). The budget appears reasonable.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and approval is recommended.

Recommendation

From a financial prospective, contingent approval is recommended.

Attachments

BFA Attachment A	Summary Net Worth Statement of Proposed Members of West ASC, LLC
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Financial Summary of Holdings, LLC d/b/a Harrison Center Outpatient
BFA Attachment D	Establishment Checklist
BHFP Attachment	Map



Public Health and Health Planning Council

Project # 101167-B

West Side GI, LLC

County: New York (New York)
Purpose: Establishment

Program: Ambulatory Surgery Center
Submitted: June 30, 2010

Executive Summary

Description

West Side GI, LLC, requests approval to establish and construct a single-specialty freestanding ambulatory surgery center (FASC) to perform gastroenterological procedures relating to endoscopy and colonoscopy services. The center will be located on the 15th floor in lease space at 57 West 57th Street, New York.

The proposed members of West Side GI, LLC consist of 11 individual physicians, each board certified in gastroenterology, one individual non-physician member and Beth Israel Ambulatory Care Services Corporation (BIACSC). The proposed membership is as follows:

Proposed Member	Interest
Dr. Peter M. Distler	18.43%
Dr. Ricardo E. Pou	14.55%
BIACSC	12.61%
Dr. Myron D. Goldberg	11.16%
Dr. Leslie F. Seecoomar	10.09%
Dr. James Palma	8.58%
Dr. Joseph A. Nash	7.57%
Dr. Jeffrey S. Crespín	4.37%
Dr. Todd B. Linden	3.10%
Dr. Jeffrey S. Aronoff	3.00%
Dr. Vicenta Caceres DeLopez	2.91%
Dr. Sain Sain Lu	2.91%
Jordan Fowler	0.72%

The facility will enter into a consulting and administrative services agreement with Omnicare MSO, LLC. The Department notes that the arrangement proposed between the facility and Omnicare MSO, LLC in which Mr. Fowler, who is part owner, will also serve as executive director of the center, appears to constitute a representative governance structure. This arrangement appears to be in compliance with the principles set forth by the Department for representative governance. Mr. Fowler has less than 10% membership interest in the proposed LLC, and is not considered a principal member according to PHL 2801-a(12)(c).

No responses were received to the Department's inquiry to local hospitals regarding the impact of the proposed ASC in the service area.

Total project costs are estimated at \$4,500,154.

DOH Recommendation
Contingent approval for a 5-year limited life.

Need Summary

The Center will perform 13, 068 gastroenterology procedures, annually, in five procedure rooms. The expected volume of procedures is based on that currently performed in the physicians' private practices. There will be no migration of procedures from local hospitals.

Approval of this CON will bring existing gastroenterology cases from private practice to a regulated Article 28 facility with surveillance and quality controls.

Program Summary

The applicant will enter into a transfer and affiliation agreement for emergency and back-up services with St. Luke's-Roosevelt Hospital Center, which is nine miles or 4 minutes in travel time from the Center.

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

Financial Summary

Project costs will be met with \$500,154 in cash and a \$4,000,000 bank loan.

Budget:	<i>Revenues:</i>	\$ 6,416,442
	<i>Expenses:</i>	<u>5,475,723</u>
	<i>Gain/(Loss):</i>	\$ 940,719

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

Architectural Summary

The new surgery center will include five procedure rooms, a Pre-Op and Recovery Room, accommodating the current and future needs of the community.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval for a limited life of 5 years from the date of issuance of an operating certificate is recommended contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a signed agreement with an outside independent entity satisfactory to the Department of Health to provide annual reports to the Department beginning in the second year of operation. Said reports shall include:
 - Data showing actual utilization including procedures;
 - Data showing breakdown of visits by payor source;
 - Data showing number of patients who need follow-up care in a hospital within seven days after ambulatory surgery;
 - Data showing number of emergency transfers to a hospital;
 - Data showing percentage of charity care provided, and
 - Number of nosocomial infections recorded during the year in question. [RNR]
3. Submission by the governing body of the ambulatory surgery center of an organizational Mission Statement which identifies, at a minimum, the populations and communities to be served by the Center, including underserved populations (such as racial and ethnic minorities, women, and handicapped persons) and the Center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
4. Submission of the statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with consultation of the legal counsel, and if it is concluded that proceeding with the proposal is acceptable. [RNR]
5. An executed transfer and affiliation agreement with a local acute care hospital. [HSP]
6. An executed administrative services agreement. [HSP]
7. Submission of an executed building lease acceptable to the Department. [BFA, CSL]
8. Submission of a loan commitment for project costs acceptable to the Department. [BFA]
9. Submission of a working capital loan commitment acceptable to the Department. [BFA]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
3. The applicant shall complete construction by June 1, 2013. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Analysis

West Side GI, LLC, a limited liability company to be renamed West Side GI Center, LLC, will have five procedure rooms and will be located at 57 West 57th Street, New York. This application was developed with the support and cooperation of St. Luke's Roosevelt Hospital and Continuum Health Partners.

West Side GI, LLC will bring existing private practices into the regulatory environment of an Article 28 center. This will allow the operator to provide screening and outreach programs to the community that are not currently feasible through the member physicians' private practices.

The membership of West Side GI, LLC includes 11 individual physicians members. The following is a list of the gastroenterologists and their expected volume of procedures:

Physicians	Annual Volume of Procedures
Jeffrey Aronoff, MD	504
Jeffery Crespín, MD	780
Vicenta Caceres DeLopez, MD	720
Peter Distler, MD	1,440
Myron D. Goldberg, MD	2,100
Todd Linden, MD	504
Sain Sain Lu, MD	720
Joseph A. Nash, MD	1,020
James Palma, MD	1,200
Ricardo E. Pou, MD	2,880
Leslie F. Seecoomar, MD	1,200
Total	13,068

The applicant reports that all of these procedures are currently performed in the physicians' private offices.

The members of the LLC state that they are committed to serving all persons in need of endoscopic care without regard to race, sex, age, religion, creed, sexual orientation, ability to pay, source of payment or other personal characteristics. The operating budget includes a commitment of two percent (2%) for charity care, screening, and community education. West Side GI, LLC reports that it is committed to the development of a formal outreach program directed to members of the local community, including local physicians. The purpose of this program is to inform these groups of the benefits derived from colon cancer screening, treatment, and prevention. The applicant states that due to the significant percent of the target service are that is African American and Hispanic, and the relatively high incidence of colon cancer among these two groups, there will be an emphasis placed on ensuring that this segment of the population benefits from these educational efforts.

Existing Freestanding Ambulatory Surgery Centers in New York County

Facility	# ORs	# Procedure Rooms	2008 Procedures
Center for Specialty Care	3	2	4,963
Fifth Avenue Surgery Center	2	0	1,832
Gramercy Park Digestive Disease	0	4	NR
Gramercy Park Surgery	2	2	NR
Kips Bay Endoscopy Center	0	4	7,833
Mid-Manhattan Surgi-Center	2	1	3,401
Surgi-Care of Manhattan	6	0	9,360
East Side Endoscopy	0	4	Approved 3/20/09

SOURCE: SPARCS

The proposed center expects to perform 13,068 procedures in the first year of operation. The projected procedures are based on the number of procedures currently performed in private practice. The applicant states that there will be no migration of procedures from local hospitals.

There are currently three single-specialty FASC's specializing in gastroenterology in Manhattan. Based on the U.S. Census, Manhattan had a population of 1,537,195 in 2000. By 2007, this population increased by 5.44 percent to 1,620,864. The proposed center is located in an area of continuing population growth with an increasing demand for gastroenterology procedures.

Recommendation

From a need perspective, contingent approval is recommended for a limited life of five years.

Programmatic Analysis

Background

This freestanding single specialty ambulatory surgery center proposes to provide gastroenterology surgical services, utilizing five procedure rooms. The Center will be in operation 8:00 a.m. to 6:00 p.m., Monday through Friday, and from 7:00 a.m. to 4:00 p.m. on Saturday. The Center intends to extend its hours as necessary to accommodate patient needs.

Staffing will consist of 31 FTEs including registered nurses and technicians, under the supervision of the Center's medical director, Ricardo Pou. Staffing is expected to increase to 34 FTEs by the third year of operation. Anesthesia services will be provided by board-certified or board-eligible anesthesiologists.

The list of procedures provided shows services consistent with the specialties of the physicians that have expressed interest in practicing at this Center. The Center intends to review this list annually and as needed to determine the appropriateness of adding new procedures consistent with individual physician expertise.

Emergency, in-patient and back-up support services will be provided by St. Luke's-Roosevelt Hospital Center, which is nine miles or 4 minutes in travel time from the Center. An answering service, with access to the surgeon who performed the surgery or his/her on call physician, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform with generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. The governing body intends on using a patient satisfaction measurement tool, and discussions with their patients, to reflect responsiveness to community need, as well as provide continuous, ongoing feedback to the organization for the total quality management improvement program.

Character and Competence

The members are:

Jeffrey Aronoff, M.D.	3.00%
Jeffrey Crespín, M.D.	4.37%
Vicenta Caceres DeLopez, M.D.	2.91%
Peter Distler, M.D.	18.43%
Jordan Fowler	0.72%
Myron Goldberg, M.D.	11.16%
Todd Linden, M.D.	3.10%
Sain Sain Lu, M.D.	2.91%

Joseph Nash, M.D.	7.57%
Joseph Palma, M.D.	8.58%
Ricardo Pou, M.D.	14.55%
Leslie Seecoomar, M.D.	10.09%
Beth Israel Ambulatory Care Services Corp.	12.61%

The Managing Members are as follows:

Peter Distler, M.D.
 Myron Goldberg, M.D.
 Adam Henick, M.D.
 Joseph Nash, M.D.
 James Palma, M.D.
 Ricardo Pou, M.D.
 Leslie Seecoomar, M.D.

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which 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

Background

The proposed members of West Side GI, LLC consist of 11 individual physicians, one individual non-physician member and Beth Israel Ambulatory Care Services Corporation (BIACSC). BIACSC, an Article 28 not-for-profit corporation was formed to operate, manage or administer one or more diagnostic and treatment centers throughout the New York Metropolitan Area. BIACSC is also a member of SSNY Planning, LLC, approved by the Public Health Council on March 18, 2010.

Presented as BFA Attachment A, are net worth statements for the proposed physician members and the individual non-physician member. Presented as BFA Attachment D is the financial summary of BIACSC.

Administrative Services Agreement

West Side GI, LLC will enter into an Administrative Services Agreement with Omnicare MSO, LLC. The consultant would provide certain professional business and administrative services to the ambulatory surgery center relating to the operation of the facility.

The applicant has submitted an executed agreement, which is summarized below:

Facility: West Side GI, LLC
Contractor: Omnicare MSO, LLC
Administrative Term: 1 Year, with option to renew for an additional 3 three year periods.
Compensation: \$150,000 per annum (\$12,500/month) for administrative services plus an additional 4% per year adjustment. Billing and collection services are \$20 per claim.

Duties of the Contractor: LISTED BELOW

Omicare MSO, LLC, as the contractor, will provide the following:

Administrative Services

While Omnicare MSO, LLC will be providing all of the following services, the Facility retains ultimate control in all of the final decisions associated with the services.

- *Financial Management Services* - Omnicare MSO, LLC will provide the facility with accounting, bookkeeping, operational and capital budgeting, tax accounts receivable and payable and electronic data processing services. They will also provide the facility with operation reports and financial statements.
- *Strategic Planning and Development* - Includes evaluating and monitoring the technical services provided by the facility. Evaluating, planning and subject to company approval, implementing new technical services. Developing and proposing to the company and facility in developing annual business goals and objectives for the facility.
- *Policies and Procedures* - Includes the development and maintenance of technical, medical, and patient care policies and procedures as necessary and appropriate for the operation of the facility. The company will also provide support in connection with all credentialing requirements on behalf of the facility providers as required by law or by any third-party payor that contract with the facility. They will also support the facility's overall quality improvement, risk management and utilization management programs.
- *Contracting Services* - Omnicare MSO, LLC shall negotiate the terms and conditions of and execute on the facility's behalf all contracts and agreements.
- *Personnel* - Omnicare MSO, LLC shall make recommendations to the company regarding personnel, space, equipment, information systems and other infrastructure items. They will take a lead role in recruiting the administrator for the facility and shall assist the company with the hiring of all necessary and appropriate initial non-licensed support personnel. They shall also make recommendations regarding employee hiring and terminations.
- *Supplies* - Omnicare MSO, LLC shall assist the facility in arranging for the provision of all medical and non-medical supplies reasonably necessary and appropriate for the operation of the facility.
- *Utilities/Waste Management* - Omnicare MSO, LLC shall assist the facility in arranging for the provision of all electricity, gas, telephone, water, heat and air conditioning necessary and appropriate for the operation of the facility. They shall also assist the facility in arranging for the disposal of all medical and non-medical waste.
- *Operating Licenses* - Omnicare MSO, LLC shall provide administrative support for the company and facility in connection with the application for and maintenance of all requisite permits and licenses. All permits and licenses shall be held solely by the facility.
- *Banking* - Omnicare MSO, LLC shall cause all collections to be deposited directly into a bank account held in company's name at Bank of America. Omnicare MSO, LLC shall have the right to pay directly from such account all costs and expenses incurred in the operation of the company.
- *Billing and Collection Services*

Lease Rental Agreement

The applicant will lease approximately 8,500 square feet of space on the thirteenth floor of 57 West 57th Street, New York, NY under the terms of the proposed lease agreement summarized below:

Lessor: AVAMER 57 Fee, LLC
Lessee: West Side GI , LLC
Term: 16 Years
Rental: The first year is rent free, \$365,500(\$43.00 per sq. ft) per annum for years 2-6, \$416,500 (\$49.00 per sq. ft.) for years 7-11 and \$450,500 (\$53.00 per sq. ft.) for years 12-16.
Provisions: Maintenance and taxes, if applicable.

The applicant has indicated that the lease will be an arm’s length lease arrangement, and has submitted letters from real estate brokers attesting to the reasonableness of the per square foot rental.

Total Project Cost and Financing

Total project costs for renovations and the acquisition of movable equipment is estimated at \$4,500,154, broken down as follows:

Renovation & Demolition	\$ 2,210,000
Design Contingency	221,000
Construction Contingency	221,000
Planning Consultant Fees	25,000
Architect/Engineering Fees	198,900
Other Fees (Consulting)	35,360
Movable Equipment	1,443,290
Telecommunications	61,745
Interim Interest Expense	57,255
Application Fee	2,000
Additional Processing Fee	<u>24,605</u>
Total Project Cost	<u>\$4,500,154</u>

Project costs are based on a October 1, 2011 construction start date and a six month construction period. The applicant’s financing plan appears as follows:

Equity	\$ 500,154
Loan @5.9% over five years	4,000,000

A letter of interest has been submitted by Olympus America, Inc., who is a United States subsidiary of Olympus Corporation, an international manufacturer and supplier of optical, medical and surgical equipment. West Side GI, LLC expects to purchase endoscopy scopes and related equipment from Olympus Surgical Products, a division of Olympus America, Inc. Olympus Financial Services, which is also a division of Olympus America, Inc. is expected to provide financing for \$4,000,000 in project costs.

Operating Budget

The applicant has submitted an operating budget in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$5,823,217	\$6,416,442
Expenses:		
Operating	\$4,179,145	\$4,530,953
Interest	259,600	164,590
Depreciation and Rent	<u>780,180</u>	<u>780,180</u>
Total Expenses	\$5,218,925	\$5,475,723
Net Income	<u>\$604,292</u>	<u>\$940,719</u>
Utilization: (procedures)	13,068	14,408
Cost Per Procedure	\$399.37	\$380.05

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

	<u>Year One</u>	<u>Year Three</u>
Commercial Insurance-Fee-For-Service	10.0%	9.8%
Commercial Insurance-Managed Care	62.0%	62.2%
Medicare Fee-For-Service	19.0%	18.9%
Medicare Managed Care	1.0%	1.1%
Medicaid Fee-For-Service	0.5%	0.4%
Medicaid Managed Care	2.5%	2.6%
Self Pay	3.0%	3.0%
Charity Care	2.0%	2.0%

Expense and utilization assumptions are based on the combined historical experience of the proposed physician members of West Side GI, LLC. The applicant has submitted physician referral letters in support of utilization projections.

Capability and Feasibility

Project cost will be satisfied by a loan from Olympus America, Inc. for \$4,000,000 at stated terms, with the remaining \$500,154 from proposed member's equity.

Working capital requirements, estimated at \$912,621, appear reasonable based on two months of third year expenses. The applicant will finance \$400,000 via a loan at an interest rate 5.9% for a five year term, for which a letter of interest has been provided by Olympus America, Inc. The remainder, \$512,621, will be provided as equity by the proposed members. Presented as BFA Attachment B, is a summary of net worth statement of the proposed members of West Side GI, LLC, which indicates the availability of sufficient funds for the stated levels of equity. Presented as BFA Attachment C, is the pro forma balance sheet of West Side GI, LLC as of the first day of operation, which indicates positive member's equity position of \$1,012,775.

The submitted budget indicates a net income of \$604,292 and \$940,719 during the first and third years of operation, respectively. The Medicaid outpatient reforms have been approved by the Federal government and implemented to change the reimbursement methodology as of September 1, 2009 and is phased in over a four year period.

Reimbursement is determined on an average rate for freestanding ambulatory surgery centers and region-enhanced by the applicable service intensity weight (SIW). The budget appears reasonable.

BFA Attachments D and E present financial summaries of the facilities currently operated by proposed members. As shown on BFA Attachment D, BIACSC has experienced negative working capital and a net loss from operations as of September 30, 2010.

The negative working capital and net operational loss are due to a lower-than-expected volume of cases at Beth Israel Ambulatory Surgi-Center. BIACSC is in the process of selling its interest in Beth Israel Ambulatory Surgi-Center. As shown on BFA Attachment E, Beth Israel Medical Center has maintained positive working capital, net assets and net profit from operations for the period shown.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

The facility will be located on the 15th floor of a commercial building. The entire building is fully sprinklered and protected with a Class I standpipe system.

The facility will be 7,550 SF and will consist of the following: patient waiting area with a toilet room, reception and filing area, admitting offices, 2 patient toilets, staff toilet, pre-op and recovery area, nurses station, 5 procedure rooms, gross decontamination room, scope processing room, scope storage room, staff lounge with lockers, mechanical room and a housekeeping closet.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, conditional approval is recommended.

Attachments

BFA Attachment A	Organizational Chart of West Side GI, LLC
BFA Attachment B	Summary Net Worth Statement of Proposed Members of West Side GI, LLC
BFA Attachment C	Pro Forma Balance Sheet
BFA Attachment D	Financial Summary of BIACSC
BFA Attachment E	Financial Summary of Beth Israel Medical Center
BFA Attachment F	Establishment Checklist
BHFP Attachment	Map

Supplemental Information

Outreach

Below are presented summaries of responses by hospitals to letters from the Department asking for information on the impact of the proposed ambulatory surgery center (ASC) in their service areas. There follows a summary of the applicant's response to DOH's request for information on the proposed facility's volume of surgical cases, the sources of those cases, and on how staff will be recruited and retained by the ASC.

Facility: New York Presbyterian Hospital
New York Weill Cornell Center
525 East 68th Street
New York, NY 10021

No response.

Facility: The Hospital for Special Surgery
535 East 70th Street
New York, NY 10021

No response.

Facility: Memorial Hospital for Cancer and
Allied Diseases
1275 York Avenue
New York, NY 10065

No response.

Facility: Lenox Hill Hospital
100 East 77th Street
New York, NY 10021

No response.

Supplemental Information from Applicant

- Need and Sources of Cases

The applicant states that all of the projected caseload will come from office-based procedures currently performed in the private practice of the physicians who have committed to perform cases at the proposed ASC. The applicant also cites growing demand for ambulatory surgical procedures, as evinced by SPARCS data showing an increase of 556% in ambulatory surgery cases for freestanding facilities in New York County between 2000 and 2009.

The applicant further states that performing cases in a facility that is under the control of the member physicians, who have practices in the local community, and which is responsive to the needs of the participating physicians, will result in greater convenience and efficiency for patients and physicians, which will encourage utilization of the proposed ASC.

The applicant also states that is committed to the development of a formal outreach program directed to members of the local community, including local physicians. The purpose of this program will be to inform these groups of the benefits derived from, and the latest advances in, colon cancer screening, treatment and prevention. The applicant also states that because a significant percentage of the population of the target service area is African-American or Hispanic, and because of the relatively high incidence of colon cancer in these two groups, the facility will place particular emphasis on ensuring that these segments of the population benefit from these educational efforts.

- Staff Recruitment and Retention

The applicant states that initial recruitment will be of selected staff currently employed by the member physicians in their private practices, particularly the nursing and technical staff. Staff will also be recruited through accredited schools, newspaper advertisements, training programs, local recruiters and, if needed, job fairs. Competitive salaries and benefits are expected to aid in the recruitment and retention of skilled employees, as are a positive work environment and flexible working hours. The applicant also expects that nurses and technicians currently employed by hospitals who choose to augment their income will be able to find supplemental employment at the proposed ASC because of the flexible work schedule, without cutting back on or abandoning their hospital employment.

- Office-Based Cases

The applicant reports that 40 percent of the 6,940 procedures to be performed at the facility annually are currently performed in office-based settings.

OHSM Comment

The absence of comments from hospitals in the proposed service area provides no basis for reversal or modification of the recommendation for five-year limited life approval of the proposed ASC based on public need, financial feasibility and operator character and competence.



Public Health and Health Planning Council

Project # 111133-B
Heritage One Day Surgery, LLC

County: Onondaga (North Syracuse)
Purpose: Establishment and Construction

Program: Ambulatory Surgery Center
Submitted: December 28, 2010

Executive Summary

Description

Heritage One Day Surgery (Heritage ODS), a to-be-formed limited liability company comprised of three physicians, requests approval to establish and construct an Article 28 diagnostic and treatment center (D&TC), to be located at 5496 East Taft Road, North Syracuse. Heritage ODS will be certified as a single-specialty, freestanding ambulatory surgery center (FASC) in the discipline of pain management.

Number of Projected Visits	
Current Year	0
Year 1	11,099
Year 2	15,453

From 2007 to 2009, the number of ambulatory surgery procedures performed continued to go up at Specialist's One-Day Surgery Center by 14% or above.

The proposed ownership is as follows:

Ownership	Interests
Robert L. Tiso, M.D.	33.333%
Eric A. Tallarico, M.D.	33.333%
Joseph A. Catania, M.D.	33.334%
<i>Total</i>	<i>100.000%</i>

Program Summary

The applicant will enter into a transfer and affiliation agreement for emergency and back-up services with St. Joseph's Hospital, which is 6.48 miles or 11 minutes in travel time from the Center.

The three physicians currently operate an office practice at the proposed site of the Center – New York Spine and Wellness Center (NYSWC) – and have been credentialed by the Accreditation Association for Ambulatory Health Care to perform office-based surgery. In 2009, they performed 9,736 procedures at the Taft Road location. These procedures were mainly performed in two procedure rooms (8,200), with the remainder (1,536) performed in exam rooms.

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

In addition to the office procedures, the physicians also performed over 5,000 invasive procedures. Not allowable in an office setting, these procedures were performed at Specialists One-Day Surgery Center, LLC, in Syracuse.

Financial Summary

Total project costs will be met via the following: members equity of \$237,495; equipment leases of \$578,477, which will be paid to NYSWC (3 yrs. @ 5.5%); and a self-amortizing loan for \$1,558,974 from Community Bank (7 yrs. @ 6.0%).

No responses were received to the Department's inquiry to local hospitals regarding the impact of the proposed ASC in the service area.

Budget:	<i>Revenues:</i>	\$ 10,707,632
	<i>Expenses:</i>	<u>3,732,528</u>
	<i>Gain/(Loss):</i>	\$ 6,975,104

Total project costs are estimated at \$2,374,946.

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

DOH Recommendation
 Contingent approval.

Architectural Summary

The FASC will be in 8,900 SF of leased space, adjacent to the proposed members' private medical practice (NYSWC). Upon completion of the 3,968 SF expansion and 4,738 SF in renovations, the FASC will have four operating rooms, pre-operating and recovery areas, along with space for the support functions.

Need Summary

Heritage ODS will meet an unmet need in the community by having the ability to perform more complex procedures than are currently available at the physicians' main practice site.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a loan commitment acceptable to the Department. [BFA]
3. Submission of a working capital loan commitment acceptable to the Department. [BFA]
4. Submission of an executed lease agreement acceptable to the Department. [BFA]
5. Submission of a photocopy of the applicant's executed facility lease, which is acceptable to the Department. [CSL]
6. Submission of a photocopy of the applicant's executed proposed articles of organization, which are acceptable to the Department. [CSL]
7. Submission of a photocopy of the applicant's executed proposed operating agreement, which is acceptable to the Department. [CSL]
8. Submission of a photocopy of a sample membership certificate, if any, which is acceptable to the Department. [CSL]
9. Submission of a statement from the applicant, acceptable to the Department, 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. [CSL]

Approval conditional upon:

1. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
2. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
3. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
4. The clinical space must be used exclusively for the approved purpose. [HSP]
5. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
6. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's request for, and Department's granting approval for the start of construction [AER].
7. The applicant shall complete construction by February 2014. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]
8. Submission by the second year of operation and every two years thereafter, of a report acceptable to the Department specifying the number and type of surgical procedures performed, and demonstrating that the procedures performed are consistent with the facility's single-specialty pain management certification. [RNR]

Council Action Date

June 16, 2011.

Need Analysis

Background

Heritage One Day Surgery, LLC proposes to develop a single specialty ambulatory surgery center to provide pain management services at 5496 East Taft Road, North Syracuse. The Center will include four operatories.

Analysis

The applicant reports that the service area of the proposed project consists primarily of the four counties where current patients of the practice of the sponsoring physicians reside. The patients are projected to come from the following Counties:

Onondaga County:	65%.
Oswego County:	25%
Madison County:	5%
Cayuga County:	3%

Other nearby counties such as Oneida, Jefferson and Cortland will also be the source of a relatively small number of patients.

The current practice of the sponsoring physicians, NYSWC, operates a large multi-disciplinary pain management program at two sites in the Syracuse area.

- a) The primary site, where the proposed ambulatory surgery center will be located, is at 5496 East Taft Road in North Syracuse.
- b) The second office site is located at 5719 Widewaters Parkway, Dewitt (also in Onondaga County).

The Taft Road office has two procedure rooms. There, in-office pain management procedures are performed that are of sufficient intensity and significance to be eligible for reimbursement if performed in an ambulatory surgery center. These procedures are mainly performed in two procedure rooms; the remainder are performed in exam rooms. Patients generally receive between one and six pain management visits annually.

At the present time, there is a six to eight week backlog for treatment. In order to expand capacity to serve their patients, the NYSWC physicians are proposing to establish a four room ambulatory surgery center at the Taft Road site in North Syracuse.

From 2007 to 2009, the number of ambulatory surgery procedures performed continued to go up at Specialist's One-Day Surgery Center; the increases are presented below.

<u>Ambulatory Surgery Total Patients</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>From-To</u>	<u>Difference</u>
Specialist's One-Day Surgery Center	7,817	9,240	10,536	2007-08	18.2%
				2008-09	14.0%

Source: SPARCS 2007-09

An overview of the number of ambulatory surgery procedures performed at Onondaga County Ambulatory Surgery Centers is given below. The number of procedures performed continued to increase. The increase was over eight (8.3) percent between 2008 and 2009.

<u>Onondaga County Patients</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Ambulatory Surgery Centers	47,816	57,225	66,687	74,022	80,195
Increase From-To		2005-06	2006-07	2007-08	2008-09
% Increase		19.7%	16.5%	11.0%	8.3%

SPARCS 2005-09

The applicant reports that the proposed center will serve all patients in need of its services regardless of income, race, sex, age or ability to pay. It is committed to creating a facility that facilitates access to all populations and will establish a fee scale for patients in need of services who are uninsured and lack the ability to pay full fees. In order to meet that demand and meet the additional future needs of the population residing in the proposed facility's service area, capacity must be expanded to perform procedures designed to address the pain experienced by NYSWC's patients. This is particularly true as new technologies are introduced in the practice of pain management which require use of an ambulatory surgery center rather than a physician office setting.

Conclusion

Based on the information provided by the applicant, the proposed Center will increase the capabilities of the applicant physicians to meet current patient needs efficiently, as well as provide the capacity to perform more complex procedures than are permitted in their current office-based setting.

Unlike other areas of medicine and surgery for which the Department authorizes single-specialty ambulatory surgery centers (e.g., orthopedics, gastroenterology), pain management is not recognized by the American Board of Medical Specialties as a board-certifiable specialty, in which the scope of services and range of procedures commonly performed fall into definable categories. Therefore, with each ambulatory surgery center (ASC) application for pain management, the Department must determine whether the surgical procedures to be provided comport with prevailing notions of pain management in current medical and surgical practice.

The physicians associated with the application are board-certified in anesthesiology, a field in which post-graduate training programs for particular categories of diagnoses and conditions have led to a more systematic definition of pain management, if only by consensus, in that specialty. The procedures to be performed at the proposed Heritage One Day Surgery, LLC, are consistent with consensus notions of pain management in anesthesiology, which supports the certification of this proposed facility as a single-specialty ASC. However, to ensure that the types of procedures performed by the facility continue to be consistent with what remains an informally defined "specialty," approval should be conditional upon biennial reporting to the Department of the type and number of procedures performed at the ASC.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

This freestanding single-specialty ambulatory surgery center proposes to provide surgical services in the areas of pain management utilizing two procedure rooms. The list of procedures provided reflects the proposed services are consistent with the specialties of the physicians that have expressed interest in practicing at this Center. The Center intends to review this list semi-annually and as needed to determine the appropriateness of adding new procedures consistent with individual physician expertise.

Staffing will consist of 17 FTEs under the supervision of the Center's medical director, Robert Tiso. Staffing is expected to increase to 20 FTEs by the third year of operation.

Emergency, in-patient and back-up support services will be provided by St. Joseph's Hospital Health Center, which is 6.5 miles and 11 minutes in travel time from the Center. An on-call physician will be available to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services.

Character and Competence

The members of the LLC are:

<u>Name</u>	<u>Office Held</u>
Robert L. Tiso, MD	Member/Manager
Eric A. Tallarico, MD	Member/Manager
Jospeh A. Catania, MD	Member/Manager

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 and relatives’ ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which 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

Lease Rental Agreement

The applicant has submitted a draft lease for the proposed site, the terms of which are summarized below:

- Premises:* 8,900 gross square feet located at 5496 East Taft Road, North Syracuse, New York
- Landlord:* Ticada Realty, LLC
- Lessee:* Heritage One Day Surgery, LLC
- Term:* 10 years at \$160,200 (\$18.00 per sq. ft) Renewal term is one five-year term
- Provisions:* Utilities, Taxes, and Insurance

The applicant states lease is a non-arm’s length arrangement, and members of the lessee (Heritage One Day Surgery, LLC) have an ownership interest in the landlord (Ticada Realty, LLC). Realtor letters have been provided attesting to the rental rate as being of fair market value.

Total Project Costs and Financing

Total project costs for new construction, renovation and acquisition of moveable equipment is estimated at \$2,374,946, broken down as follows:

New Construction	\$589,600
Renovation & Demolition	665,940
Design Contingency	125,554
Construction Contingency	125,554
Planning Consultant Fees	40,000
Architect/Engineering Fees	149,000
Movable Equipment	664,318
CON Application Fee	2,000
CON Processing Fee	<u>12,980</u>
Total Project Cost	\$2,374,946

Project costs are based on a July 1, 2011 start date with an eight and a half month construction period.

The applicant's financing plan appears as follows:

Cash Equity (Applicant)	\$237,495
Equipment Lease (5.5%, 3-year term)	578,477
Bank Loan (6.0%, 7-year term)	<u>1,558,974</u>
Total	\$2,374,946

A letter of interest has been provided from Community Bank.

Operating Budget

The applicant has submitted first and third years operating budgets, in 2011 dollars, as summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$7,694,295	\$10,707,632
Expenses:		
Operating	\$2,279,064	\$3,165,714
Capital	<u>597,304</u>	<u>566,814</u>
Total Expenses	\$2,876,368	\$3,732,528
Net Income or (Loss)	\$4,817,927	\$6,975,104
Utilization: (procedures)	11,099	15,453
Cost Per Procedure	\$259.16	\$241.54

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

Medicaid Fee-For-Service	1.0%
Medicaid Managed Care	1.0%
Medicare Fee-For-Service	30.0%
Commercial Fee-For-Service	16.0%
Commercial Manage Care	23.0%
Private Pay	3.0%
Worker's Compensation	24.0%
Charity	2.0%

Expense and utilization assumptions are based on the experiences from member physicians' private practices. The applicant has submitted physician referral letters in support of the utilization projections. The breakeven point is approximately 37.39% of projected volume for year one, or 4,150 procedures and 34.86% of projected volume for year three, or 5,387 procedures.

Capability and Feasibility

The total project cost of \$2,374,946 will be satisfied by: the proposed members contributing \$237,495 from their personal resources; entering into a \$578,477 equipment lease with the private practice, New York Spine and Wellness Center (NYSWC); and taking out a \$1,558,974 loan for the balance from Community Bank at the above stated terms.

Working capital requirements are estimated at \$622,086, which appears reasonable based on two months of third year expenses. Half of the working capital or \$311,043 will be contributed from the member’s assets with the balance of \$311,043 being borrowed from Community Bank and repaid over five years at a 6% fix rate of interest. Presented as BFA Attachment A is the applicant’s personal net worth statement which supports the ability to meet equity and working capital requirements. Presented as BFA Attachment B is Heritage One Day Surgery pro-forma balance sheet that shows operations will start off with \$548,538 in positive equity.

Heritage One Day Surgery projects an operating excess of \$4,817,927 and \$6,975,104 in the first and third years, respectively.

Revenues are based on current and projected federal and state governmental reimbursement methodologies, while commercial payers are based on conversations with the area managed care plan representatives. The department has verified the projected rates for Medicare and Workers Compensation, and has found the budget to be reasonable.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

The private practice of the three (3) participating physicians (New York Spine and Wellness Center) currently occupies space on the ground floor of an existing 1 story medical office building. A total of 2,135 SF of distinct space located within the office is currently utilized for pain blocks. This area contains two (2) procedure rooms, prep/holding stations and ancillary support. This pain block area will be relocated to the new FASC facility within the same building.

The proposed project will be 8,706 SF, consisting of renovations to 4,738 SF of vacant tenant space and a 3,968 SF addition. The proposed FASC facility will include a waiting area, 4 operating rooms, 8 prep/holding stations, 12 recovery stations and 2 nurse stations. Also included will be men’s and women’s locker rooms, 2 rooms for the processing of instrumentation, supply rooms, soiled holding room, offices, staff lounge and support spaces.

Environmental Review

The Department has deemed this project to be a TYPE I Action and the lead agency shall be the county of Onondaga or the authority having jurisdiction.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement of Proposed Members of Heritage One Day Surgery, LLC
BFA Attachment B	Pro Forma Balance Sheet of Heritage One Day Surgery, LLC
BFA Attachment C	Establishment Checklist for Ambulatory Care Sites
BHFP Attachment	Map

Supplemental Information

Outreach

Below are presented summaries of responses by hospitals to letters from the Department asking for information on the impact of the proposed ambulatory surgery center (ASC) in their service areas. There follows a summary of the applicant's response to DOH's request for information on the proposed facility's volume of surgical cases, the sources of those cases, and on how staff will be recruited and retained by the ASC.

Facility: University Hospital SUNY Health Sciences Center
750 East Adams Street
Syracuse, NY 13210

No response.

Facility: Crouse Hospital
736 Irving Avenue
Syracuse, NY 13210

No response.

Facility: St. Joseph's Hospital Center
301 Prospect Avenue
Syracuse, NY 13203

No response.

Supplemental Information from Applicant

- Need and Sources of Cases

The applicant states that the majority of the proposed ASC's cases are currently being performed in the office settings of the proposed physician owners. The applicant also cites information from the National Center for Health Statistics showing that chronic pain affects 26 percent of the population age 20 and older. The applicant states that this translates into an estimated 126,000 persons age 25 and above projected to be affected by chronic pain in the four-county area to be served by the ASC. The applicant projects that it is these individuals who are most likely to benefit from the establishment of the proposed facility. The applicant also expects that the proposed ASC will attract patients by introducing the latest pain management techniques, which are unlikely to be available elsewhere in the region.

- Staff Recruitment and Retention

Staff will move from the office-based practice of the applicant physicians. Others will be recruited from accredited schools and training programs, as well as through advertisements in local newspapers and professional publications. The applicant also intends to maintain good human resource and communication systems within the organization and to offer competitive wages and above-average benefits. The facility will also provide incentives for good performance.

- Office-Based Cases

The applicant projects that approximately 90 percent of the procedures in the first year of operation would transfer from the office-based surgery practice of the participating physicians. By the third year of operation, it is projected that an additional 4,300 procedures not currently performed in an office-based setting would be performed in the new center.

OHSM Comment

The absence of opposition from hospitals in the proposed service area provides no basis for reversal or modification of the recommendation for five-year limited life approval of the proposed ASC based on public need, financial feasibility and operator character and competence.



Public Health and Health Planning Council

Project # 111138-B

Putnam GI, LLC
d/b/a Putnam Endoscopy ASC, LLC

County: Putnam (Carmel)

Program: Ambulatory Surgery Center

Purpose: Establishment and Construction

Submitted: January 20, 2011

Executive Summary

Description

Putnam GI, a limited liability company comprised of four members, requests approval to establish and construct a diagnostic and treatment center (D&TC) which will also be certified as an ambulatory surgical center (ASC) to serve the residents of Putnam County. The Center will be located in leased space at 687 Stoneleigh Avenue, Carmel, and will consist of two operating rooms. The Center will enter into a transfer affiliation agreement with Putnam Hospital Center. Upon approval Putnam GI, LLC will change its name to Putnam Endoscopy ASC, LLC.

The proposed members of Putnam GI, LLC are as follows:

Sunil Gupta, MD	46%
Michael Kushner, MD	46%
Oleg Gutnik, MD	4%
Jordan Fowler	4%

No responses were received to the Department's inquiry to local hospitals regarding the impact of the proposed ASC in the service area.

Total project costs are estimated at \$871,011.

DOH Recommendation

Contingent approval for a 5-year limited life.

Need Summary

Putnam Endoscopy ASC, LLC expects to perform 2,400 gastroenterology procedures in the first year of operation. There will be no impact on the utilization of ambulatory surgical services at Putnam Hospital Center.

Program Summary

The applicant will enter into a transfer and affiliation agreement for emergency and back-up services with Putnam Hospital, which is less than one tenth of a mile from the Center.

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

Financial Summary

Project costs will be met as follows: equity of \$171,011 and a bank loan of \$700,000 at an interest rate of 4.50% for a five year term.

Budget:	<i>Revenues:</i>	\$ 1,513,154
	<i>Expenses:</i>	<u>1,388,030</u>
	<i>Gain/(Loss):</i>	\$ 125,124

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

Architectural Summary

The applicant is requesting approval to construct a single specialty freestanding ambulatory surgery center for the provision of endoscopy procedures. The proposed ASC will occupy approximately 2,500 SF of space on the second floor of an existing two-story building.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval for a limited life of 5 years from the date of issuance of an operating certificate is recommended contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a signed agreement with an outside independent entity satisfactory to the Department of Health to provide annual reports to the Department beginning in the second year of operation. Said reports shall include:
 - Data showing actual utilization including procedures;
 - Data showing breakdown of visits by payor source;
 - Data showing number of patients who need follow-up care in a hospital within seven days after ambulatory surgery;
 - Data showing number of emergency transfers to a hospital;
 - Data showing percentage of charity care provided, and
 - Number of nosocomial infections recorded during the year in question. [RNR]
3. Submission by the governing body of the ambulatory surgery center of an organizational Mission Statement, which identifies, at a minimum, the populations and communities to be served by the center, including underserved populations such as racial and ethnic minorities, women, and handicapped persons and the center's commitment to meet the health care needs of the community, including the provision of services to those in need regardless of ability to pay. The statement shall also include commitment to the development of policies and procedures to assure that charity care is available to those who cannot afford to pay. [RNR]
4. Submission of a statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with consultation of the legal counsel, and it is concluded that proceeding with the proposal is acceptable. [RNR]
5. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
6. Submission of an executed lease rental agreement that is acceptable to the Department. [BFA, CSL]
7. Submission of a bank loan commitment that is acceptable to the Department. [BFA]
8. Submission of a working capital loan commitment that is acceptable to the Department. [BFA]

Approval conditional upon:

1. The staff of the facility must be separate and distinct from staff of other entities. [HSP]
2. The signage must clearly denote the facility is separate and distinct from other adjacent entities. [HSP]
3. The entrance to the facility must not disrupt any other entity's clinical program space. [HSP]
4. The clinical space must be used exclusively for the approved purpose. [HSP]
5. The applicant agreeing to obtain Department of Health approval prior to entering into, or making substantive changes to, an approved agreement, including any subcontracts or assignments, involving management, administrative and/or consulting activities or services, including but not limited to operational policies or procedures. [HSP]
6. The applicant shall complete construction by December 31, 2014. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]
7. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
8. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's request for, and Department's granting approval for the start of construction. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

Putnam Endoscopy ASC, LLC requests approval to establish and construct a freestanding ambulatory surgery center specializing in gastroenterology at 667 Stoneleigh Avenue, Carmel, in Putnam County.

Analysis

The projected utilization at Putnam Endoscopy ASC is based on the current caseload of Sunil Gupta, M.D. and Michael Kushner, M.D., the two member physicians who have committed to perform procedures at the proposed ambulatory surgery center.

The applicant expects to perform 2,400 gastroenterology procedures in the first year of operation. All of these procedures are currently performed in the office-based setting.

Procedures that are more appropriately performed in a general hospital setting will continue to be performed at area hospitals where the member physicians are credentialed. This application has been developed with the support of Putnam Hospital Center, which will serve as the backup hospital and is less than one-tenth of a mile from the proposed center.

The applicant reports that they are committed to developing a formal outreach program directed to members of the local community, including local physicians. The purpose of this program is to inform these groups of the benefits derived from colon cancer screening, treatment, and prevention. The applicant will dedicate a portion of its revenue for the implementation of this program and for charitable care.

Currently, there are no approved Article 28 freestanding ambulatory surgery centers in Putnam County.

The applicant reports that in addition to Dr. Gupta's and Dr. Kushner's private practice, there are three other office-based endoscopy practices in Putnam County.

The American Academy of Family Physicians recommends periodic colorectal screenings for adults 50 years of age and older, as well as adults 40 years and older who have a family history of colorectal cancer.

The population in Putnam County for those age 45 and over grew from 33,634, or 35 percent of the population, in 2000 to 40,625, or 41 percent of the population, in 2009. This 17 percent increase demonstrates growth in the patient population for gastroenterology.

Conclusion

Based on the applicant's ability to improve access to gastroenterology services in an area with significant actual and projected growth of the age cohort for which endoscopies and other gastroenterological procedures are most prescribed, approval is recommended for a limited life of five years from the date of issuance of an operating certificate.

Recommendation

From a need perspective, contingent approval is recommended for a limited life of five years.

Programmatic Analysis

Background

This freestanding single-specialty ambulatory surgery center proposes to provide surgical services in the areas of gastroenterology utilizing two procedure rooms. The Center will be in operation Monday through Friday from 7:00 a.m. to 5:00 p.m. The Center intends to extend its hours as necessary to accommodate patient needs.

The list of procedures provided reflects the proposed services are consistent with the specialties of the physicians that have expressed interest in practicing at this Center. The Center intends to review this list on an on-going basis and revise as necessary ensure the appropriateness of adding new procedures consistent with individual physician expertise.

Staffing will consist of 9.2 FTEs including registered nurses and technicians, under the supervision of the Center's medical director, Sunil Gupta.

Emergency, in-patient and back-up support services is expected to be provided by Putnam Hospital, which is less than one tenth of a mile from the Center. A 24-hour, seven day a week on-call service, with access to the on-call physician, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. The governing body intends to use a patient satisfaction measurement tool, and discussions with their patients, to ensure responsiveness to community need, as well as to provide continuous, ongoing feedback to the organization for the facility's total quality management improvement program.

Character and Competence

The members of the LLC are:

<u>Name</u>	<u>Office Held</u>
Sunil Gupta, M.D.	Member/Manager
Michael Kushner, M.D.	Member/Manager
Oleg Gutnik, M.D.	Member/Manager
Jordan Fowler	Member/Manager

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

Conclusion

The above reviews revealed nothing which would reflect adversely upon the applicant's character and competence or standing in the community.

Recommendation

From a programmatic perspective, contingent is recommended.

Financial Analysis

Lease Rental Agreement

The applicant has submitted a draft lease rental agreement for the site to be occupied, the terms of which are summarized below:

Premises: 2,500 sq. ft. located at 687 Stoneleigh Avenue, Carmel, New York
Lessor: K&G Realty
Lessee: PGI, LLC
Term: 15 years
Rental: \$62,500 annually (\$25.00 per sq. ft.)
Provisions: The lessee shall be responsible for utilities and real estate taxes.

The applicant has submitted real estate letters attesting to the reasonableness of the per square foot rental. The applicant has indicated that the lease arrangement will be a non arms-length lease arrangement.

Total Project Cost and Financing

Total project cost for renovations and the acquisition of moveable equipment is estimated at \$871,011, itemized as follows:

Renovation and Demolition	\$510,000
Design Contingency	51,000
Construction Contingency	51,000
Architect/Engineering Fees	40,800
Other Fees (Consultant)	51,000
Moveable Equipment	137,858
Telecommunications	5,100
Financing Costs	7,000
Interim Interest Expense	10,500
CON Fee	2,000
Additional Processing Fee	<u>4,753</u>
Total Project Cost	\$871,011

Project costs are based on an October 1, 2011 construction start date and a six month construction period.

The applicant's financing plan appears as follows:

Equity	\$171,011
Bank Loan (4.50% for a 5 year term)	700,000

Operating Budget

The applicant has submitted an operating budget in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$1,486,720	\$1,513,154
Expenses:		
Operating:	\$1,234,573	\$1,248,091
Capital:	<u>156,051</u>	<u>139,939</u>
Total Expenses:	\$1,390,624	\$1,388,030
Net Income:	\$96,096	\$125,124

Utilization: (Procedures)	2,400	2,448
Cost Per Procedure:	\$579.43	\$567.00

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

	<u>Year One</u>	<u>Year Three</u>
Medicaid Fee-For-Service	2.00%	1.79%
Medicaid Managed Care	3.00%	3.18%
Medicare Fee-For-Service	16.00%	15.60%
Medicare Managed Care	3.00%	3.39%
Commercial Fee-For-Service	18.00%	17.60%
Commercial Managed Care	55.00%	55.43%
Other	1.00%	.98%
Charity Care	2.00%	2.03%

Expense and utilization assumptions are based on the personal experience of Sunil Gupta, MD., and Michael Kushner, MD., both of whom are board-certified gastroenterologists who presently perform the projected procedures in their private offices in Putnam County. The applicant provided physician referral letters in support of utilization projections. Presented as BFA Attachment D, is a summary of the detailed budget.

Capability and Feasibility

The applicant will finance \$700,000 at an interest rate of 4.50% for a five year term. The remainder, \$171,011, will be provided in the form of equity by the proposed members of Putnam GI, LLC.

Working capital requirements are estimated at \$231,338, which appears reasonable based on two months of third year expenses. The applicant will finance \$115,669 via a bank loan at an interest rate of 3.75% for a one year term. The remainder, \$115,669, will be provided as equity by the proposed members of Putnam GI, LLC.

Presented as BFA Attachment A is the personal net worth statements of Putnam GI, LLC, which indicates the availability of sufficient funds for the project cost and the working capital equity contribution. Presented as BFA Attachment B, is the pro forma balance sheet of Putnam Endoscopy, ASC, LLC as of the first day of operation, which indicates a positive member's equity position of \$286,680.

The applicant projects a net income of \$96,096 and \$125,124 during the first and third years, respectively. Revenues are based on current reimbursement methodologies for ambulatory surgery services.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

The proposed ambulatory surgery center will occupy approximately 2,500 SF of space on the second floor of an existing two-story building. The ambulatory surgery center will include the following: patient waiting area, reception and filing area, office, patient, staff and public toilets, pre-op and recovery area, nurse station, two procedure rooms, gross decontamination room, scope processing room, scope storage room, staff lounge with lockers, soiled work room, clean store room, medical gas and vacuum room and a janitor's closet.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

- BFA Attachment A Personal Net Worth Statement of Proposed Members of Putnam Endoscopy, ASC, LLC
- BFA Attachment B Pro Forma Balance Sheet Of Putnam Endoscopy, ASC, LLC
- BFA Attachment C Establishment Checklist for Ambulatory Care Sites
- BFA Attachment D Summary of Detailed Budget
- BHFP Attachment Map

Supplemental Information

Outreach

Below are presented summaries of responses by hospitals to letters from the Department asking for information on the impact of the proposed ambulatory surgery center (ASC) in their service areas. There follows a summary of the applicant’s response to DOH’s request for information on the proposed facility’s volume of surgical cases, the sources of those cases, and on how staff will be recruited and retained by the ASC.

Facility: Hudson Valley Hospital Center
1980 Crompond Road
Cortlandt Manor, NY 10567

No response.

Facility: Northern Westchester Hospital
400 East Main Street
Mount Kisco, NY 10549

No response.

Facility: Putnam Hospital Center
670 Stoneleigh Avenue
Carmel, NY 10512

No response.

Supplemental Information from Applicant

- Need and Sources of Cases

The applicant states that all of the projected caseload will come from office-based procedures currently performed in the private practice of the two applicant physicians. The applicant also points out the low number of gastroenterologists in Putnam County and the availability of only three other office-based surgery practices offering endoscopy in the jurisdiction. The applicant further expects that the growth of the population aged 45 years and older will be a source of cases for the ASC. Between 2000 and 2009, this segment of the population grew by 17 percent in Putnam County.

The applicant further states that performing cases in a facility that is under the control of the member physicians, who have practices in the local community, and which is responsive to the needs of the participating physicians, will result in greater convenience and efficiency for patients and physicians, which will encourage utilization of the proposed ASC.

- Staff Recruitment and Retention

The applicant states that initial recruitment will be of selected staff currently employed by the member physicians in their private practices, particularly the nursing and technical staff. Staff will also be recruited through accredited schools, newspaper advertisements, training programs, local recruiters and, if needed, job fairs. Competitive salaries and benefits are expected to aid in the recruitment and retention of skilled employees, as are a positive work environment and flexible working hours. The applicant also expects that nurses and technicians currently employed by hospitals who choose to augment their income will be able to find supplemental employment at the proposed ASC because of the flexible work schedule, without cutting back on or abandoning their hospital employment.

OHSM Comment

The absence of comments from hospitals in the proposed service area provides no basis for reversal or modification of the recommendation for five-year limited life approval of the proposed ASC based on public need, financial feasibility and operator character and competence.



Public Health and Health Planning Council

Project # 111194-B

East Side Endoscopy

County: New York (New York)

Program: Ambulatory Surgery Center

Purpose: Establishment and Construction

Submitted: February 14, 2011

Executive Summary

Description

East Side Endoscopy, LLC, an existing freestanding ambulatory surgery center (ASC) specializing in gastroenterology, requests approval to add seven new members, transfer 22.5% of its membership interest, and renovate the existing facility in New York County. The facility, located at 380 Second Avenue, Concourse A, in Manhattan, currently has 4 procedure rooms and 14 bays and after the proposed renovation, the space will have 6 procedure rooms and 18 bays. The growth is due to the addition of five new physician members that are being proposed as part of this application. Currently, the facility is at capacity with the current utilization, and the bays are inadequate to accommodate the anticipated increase in procedures.

It should be noted that there are three classes of members for this application; (A Members defined as eligible physicians), (B Members defined as non-physician members), and (C Members defined as an outside institute class).

Beth Israel Medical Center will continue to serve as the backup hospital for this facility. The total purchase price for the membership interest is \$270,000. Physicians Endoscopy, LLC will continue to provide administrative and consulting services to the facility.

Total project costs are estimated at \$1,202,674.

DOH Recommendation
Contingent approval.

Need Summary

East Side Endoscopy, LLC performed 7,297 procedures in 2010, with nine physician members using four procedure rooms. This equals 1,825 procedures per procedure room, which exceeds the expected 1,200 procedures per procedure room.

The applicant proposes to add 11 additional physicians and two additional procedure rooms and perform a total of 12,375 procedures in the first year of operation. This equals 2,063 procedures per procedure room.

This application brings together seven additional office-based surgical practices into a single Article 28 ASC.

Program Summary

Based on the information reviewed, the hospital is in substantial current compliance with Section 2802-(3)(e) of the New York State Public Health Law and has provided substantially consistent high level of care.

Financial Summary

Total membership purchase price is \$270,000, which will be paid from member's equity. Project costs will be met with \$122,674 in equity and a \$1,080,000 loan at 6.00% for a term of 5 years.

Incremental Budget:	<i>Revenues:</i>	\$ 6,967,101
	<i>Expenses:</i>	<u>1,811,766</u>
	<i>Gain/(Loss):</i>	\$ 5,155,335

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

Architectural Summary

This project involves the renovation of 2,011 SF of adjacent shell space to expand an existing 8,200 SF endoscopy facility. The proposed renovation will provide 2 additional procedure rooms and 4 additional recovery bays. The completed facility will include a total of six procedure rooms and eighteen recovery bays.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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 asset purchase agreement. [BFA]
3. Submission of a final financing package acceptable to the Department of Health. [BFA]
4. Submission of a photocopy of the applicant's fully executed First Amendment to the Operating Agreement, which must be acceptable to the Department. [CSL]
5. Submission of a photocopy of a fully executed Second Certificate of Amendment to the Articles of Organization of CKB Partners, LLC, which must be acceptable to the Department. [CSL]
6. Submission of a photocopy of a fully executed First Amendment to the Operating Agreement of CKB Partners, LLC, which must be acceptable to the Department. [CSL]
7. Submission of a photocopy of a fully executed Certificate of Amendment to the Articles of Organization of Lexington Endo, LLC which must be acceptable to the Department. [CSL]
8. Submission of a photocopy of a fully executed Operating Agreement of Lexington Endo, LLC, which must be acceptable to the Department. [CSL]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
3. The applicant shall complete construction by September 1, 2013. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

East Side Endoscopy, LLC, a freestanding ambulatory surgery center specializing in gastroenterology, is located at 380 Second Avenue, Concourse A, New York.

The existing center has 8,200 square feet with four procedure rooms and 14 recovery bays. In 2010, the center performed 7,300 procedures. With the proposed renovation, the facility will expand by 2,011 square feet to accommodate two additional procedure rooms and four additional recovery bays.

The current and proposed members of the LLC are as follows:

EAST SIDE ENDOSCOPY, LLC		
Current and Proposed Member List		
Class A Members	Current Membership	Proposed Membership
Howard Antosofsky, M.D.	7.50000%	5.72368%
Michael Blechman, M.D.	7.50000%	5.72368%
Anthony Chan, M.D.	7.50000%	5.72368%
Hon-Ming Eng, M.D.	7.50000%	5.72368%
Michael Eng, M.D.	7.50000%	5.72368%
Rene Eng, M.D.	7.50000%	5.72368%
David Feldman, M.D.	7.50000%	5.72368%
Babak Mohajar, M.D.	7.50000%	5.72368%
Bharat Sanghavi, M.D.	7.50000%	5.72368%
Cary Schneebaum, M.D.	7.50000%	5.72368%
CKB Partners, LLC	0.00000%	4.50000%
Lexington Endo, LLC	0.00000%	6.75000%
Eliot Arons, M.D.	0.00000%	2.25000%
Larry Attia, M.D.	0.00000%	2.25000%
Ira Breite, M.D.	0.00000%	2.25000%
James Lax, M.D.	0.00000%	2.25000%
William Winkler, M.D.	0.00000%	2.25000%
Class B Member		
John M. Poisson	5.00000%	5.00000%
Class C Member		
Beth Israel Ambulatory Care Services Corp.	20.00000%	15.26316%
Total	100.00000%	100.00000%

The proposed change in membership will add five individual physician members and two limited liability company members, CKB Partners, LLC and Lexington Endo, LLC. Each of these LLC's have three individual physician members. This means a total of eleven physicians will join the nine physicians that are current members of East Side Endoscopy.

Beth Israel Medical Center, which is located less than a mile from the Center, will continue to serve as the backup hospital. The physician members of East Side Endoscopy (and the physician members of the LLC members) have or will apply for admitting privileges at Beth Israel Medical Center, and have medical practices within the Center's service area. Each physician member has made a commitment to perform gastroenterological procedures that are appropriately performed in a freestanding ambulatory surgery center at the Center. East Side Endoscopy remains committed to serving all persons in need of surgical care without regard to liability to pay or other personal characteristics. As evidence of that commitment, the operating budget projects two percent charity care, which is consistent with the Center's first year of operation.

Physician's Endoscopy, LLC will continue to provide administrative and consulting services to the Center.

<u>Utilization</u>	<u>Current Year 2010</u>	<u>1st Year</u>	<u>3rd Year</u>
East Side Endoscopy	7,297	12,375	13,384

For 2010, the existing nine physician members performed 7,297 gastroenterology procedures. With the addition of eleven gastroenterologists, the utilization is projected to increase to 12,375 procedures in the first year of operation.

The projected utilization is based on the current volume of procedures performed by the individual physicians.

<u>New Physician Members</u>	<u>Annual Projected Procedures</u>
Elliot Arons, M.D.	350
Lawrence Attia, M.D.	663
Jason Bratcher, M.D.	221
Ira Breite, M.D.	410
William Brown, M.D.	124
Seth Cohen, M.D.	310
Franklin Kasmin, M.D.	310
James Lax, M.D.	507
Ruvan Shein, M.D.	845
Howard Siegel, M.D.	934
Jerome Siegel, M.D.	100
William Winkler, M.D.	640
<i>Total</i>	<u>5,414</u>

<u>Existing ASCs – New York County</u>	<u>2010 Utilization</u>
Center for Specialty Care	4,679
East Side Endoscopy	7,297
Fifth Ave. Surgery Center	2,053
Gramercy Park Digestive Disease	7,494
Gramercy Surgery Center	1,843
Kips Bay Endoscopy Center	9,179
MidMahattan Surgi-Center	3,684
Midtown Surgery Center	---
Retinal ASC of New York	647
Surgicare of Manhattan	---

SOURCE: SPARCS

Conclusion

The applicant brings together seven additional office-based surgical practices into a single Article 28 ambulatory surgery center.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

East Side Endoscopy, an existing limited liability company which owns and operates a single-specialty ambulatory surgery center, requests approval to transfer 22.5% of the membership to new members and to increase the size of the center to accommodate additional volume.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will continue to ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center's admissions policy includes 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.

Character and Competence

The current membership of East Side Endoscopy consists of Class A individual physician members, one Class B individual member and one Class C member, Beth Israel Ambulatory Care Services Corp. The proposed membership will consist of the same Class B and Class C members, but will add seven new Class A members including five individual physicians and two limited liability companies (each of which had individual physician members). The new members, who are the subject of the Character and Competence Review, are:

Elliot Arons, MD	2.25%
Larry Attia, MD	2.25%
Ira Breite, MD	2.25%
James Lax, MD	2.25%
William Winkler, MD	2.25%
CKB Partners LLC	4.50%
William Brown, MD	(1.5% indirectly)
Seth Cohen, MD	(1.5% indirectly)
Franklin Kasmin, MD	(1.5% indirectly)
Lexington Endo, LLC	6.75%
Howard Antosofsky, MD	(2.25% indirectly as a member of Lexington; 7.97368% in total as is already a current individual member of East Side)
Ruvan Shein, MD	(2.25% indirectly)
Howard Seigel, MD	(2.25% indirectly)

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

Additionally, the staff from the Division of Certification & Surveillance reviewed the ten-year surveillance history of any and 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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which 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

Administrative Service Agreement

The applicant has provided an executed administrative service agreement, the terms of which are summarized below:

Provider: Physicians Endoscopy, LLC
Facility Operator: East Side Endoscopy, LLC
Services provided: Provide administrative services such as; financial management services; strategic planning and development; policies and procedures support; contractual services including agreements with payor sources with approval by board; recruitment and hiring of administrative personnel; purchasing non-medical supplies; arrange for all utilities delivery including waste management; maintenance of permits and licenses to be in compliance; doing the daily banking; billing and collection services.
Compensation: \$10,000 per month or (\$120,000 per annual). Also, during the development services during the initial stage, the compensation has a set-up fee of a one time fee of \$100,000 set up in four equal payments of \$25,000 during the first year only.
Term: Agreement shall commence on the first day of operation and shall continue for three years from the effective date automatically renewing for three year successive terms.

The applicant indicates that this is a non-arms length agreement, as Mr. John Poisson is a member of Physicians Endoscopy, LLC who is providing the consulting and administrative services to the Center.

Total Project Cost and Financing

Total project cost, which is for renovations and the acquisition of moveable equipment, is estimated at \$1,202,674 further broken down as follows:

Renovation & Demolition	\$390,000
Design Contingency	39,000
Construction Contingency	39,000
Architect/Engineering Fees	31,200
Other Fees	31,200
Moveable Equipment	580,365
Telecommunications	48,241
Financing Costs	21,600
Interim Interest Expense	13,500
CON Fee	2,000
Additional Processing Fee	<u>6,568</u>
Total Project Cost	\$1,202,674

Project costs are based on an October 1, 2011 construction start date and three month renovation period. The applicant's financing plan appears as follows:

Equity	\$122,674
*Loan to East Side Endoscopy, LLC (Term 5 year at 6.00%)	\$1,080,000

** Loan will be provided by a bank from which a letter of interest has been submitted.*

Operating Budget

The applicant has submitted an incremental operating budget, in 2011 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$5,877,862	\$6,967,101
Expenses:		
Operating	\$1,104,014	\$1,390,122
Capital	<u>408,320</u>	<u>421,644</u>
Total Expenses	\$1,512,334	\$1,811,766

Net Income	\$4,365,528	\$5,155,335
Utilization: (Procedures)	5,078	6,087
Cost Per Procedure	\$297.82	\$297.65

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

	<u>Year One</u>	<u>Year Three</u>
Commercial Fee-for-Service	10.4%	10%
Commercial Managed Care	37.0%	37%
Medicare Fee-for-Service	26.0%	26%
Medicare Managed Care	9.0%	9%
Medicaid Fee-for-Service	1.0%	0%
Medicaid Managed Care	6.0%	6%
Private Pay	8.6%	8%
Charity Care	2.0%	2%

Expense and utilization assumptions are based on the historical experience of East Side Gastroenterology, LLC, which currently serves New York County. The applicant has submitted physician referral letters in support of the growing utilization projections.

Capability and Feasibility

The operational purchase price of \$270,000 will be satisfied through membership equity. Presented as BFA Attachment A, are the personal net worth statements for the five proposed members, who will contribute \$27,000 each from their personal assets. CKB, LLC will acquire its membership interest for \$54,000 equally among all its members as indicated in BFA Attachment A. CKB, LLC was established in June 21, 2010, but has not started officially running the business, so the members will provide monies from their personal net worth at this time. Lexington Endo will acquire its interest for \$81,000 in personal equity as indicated on BFA Attachment A. Lexington Endo, LLC was filed in December 2010, and has not started operation, thereby not having financial statements. In lieu, the members are putting up their personal financial equity equally among all the members for their interest.

Total project cost of \$1,202,674 will be met via equity of \$122,674 provided by East Side Endoscopy, LLC, and a loan of \$1,080,000 for a term of 5 years at 6%. A letter of interest has been submitted indicating interest.

Working capital requirements estimated at \$301,961 appear reasonable based on two months' of third year expenses. Presented as BFA Attachment B is the East Side Endoscopy, LLC unaudited financial statements since it started in December 2010, indicating the ability to meet the working capital requirement.

The submitted budget projects a net income of \$4,365,528 and \$5,155,335 during the first and third years of operation, respectively. Revenues are based on current reimbursement methodologies for ambulatory surgery services.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

The proposed renovation will expand an existing 8,200 SF facility by 2011 SF, including space for 2 additional procedure rooms and 4 additional recovery bays. The completed facility will include a total of six procedure rooms and

eighteen recovery bays. The renovated space will form a suite of rooms including two 224 SF procedure rooms, the recovery area at 645 SF, a 110 SF nurses station, 184 SF discharged waiting area, a toilet room and other support spaces. A contiguous 256 SF storage closet will be accessible outside the proposed suite from a restricted corridor of the existing facility.

Environmental Review:

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

<h2>Attachments</h2>

- | | |
|------------------|--|
| BFA Attachment A | Personal Net Worth Statement of proposed members |
| BFA Attachment B | Financial Statement – Unaudited Financial Statement for East Side Endoscopy, LLC |
| BFA Attachment C | Detailed Budget Analysis |

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Diagnostic and Treatment Centers - Establish/Construct

Exhibit #11

	<u>Number</u>	<u>Applicant/Facility</u>
1.	082140 E	Ralph Lauren Center for Cancer Care and Prevention (New York County)
2.	092199 E	East Coast Rehabilitation, Inc. d/b/a Columbus Center for Medical Rehabilitation (Queens County)
3.	101103 B	Queens Medical Pavilion, LLC (Queens County)
4.	102159 B	Parcare Community Health Network (Kings County)
5.	102256 E	South Brooklyn Medical Administrative Services, Inc. (Kings County)
6.	102363 E	HeartShare Wellness Ltd. (Kings County)



Public Health and Health Planning Council

Project # 082140-E

Ralph Lauren Center for Cancer Care and Prevention

County: New York (New York)
Purpose: Establishment

Program: Diagnostic and Treatment Center
Submitted: November 10, 2008

Executive Summary

Description

Ralph Lauren Center for Cancer Care and Prevention, a not-for-profit diagnostic and treatment center (D&TC) located in leased space at 1919 Madison Avenue, New York, was originally approved for 3-year limited life under CON #011190-B in November 2001. At the end of that limited life, the facility still had not reached a breakeven operation. Therefore, CON #062286-E, submitted by the facility to be granted permanent life, was given a 3-year extension of its limited life in order for the facility to try and achieve at least a breakeven operation. That limited life ended in April 2009.

From approval of CON #062286-E to now, the facility has been in discussions with the Department of Health regarding their overall feasibility and governance. Through these discussions, the facility has been allowed to continue operations until able to develop a plan to determine the overall viability of this facility. The application for permanent life certification under CON #082140-E has been updated in order to account for the new plan in which the facility will be given an additional 3-year limited life to 2013. During this time period, the facility will be receiving additional grant monies of \$2,800,000 per year from Memorial Sloan Kettering Cancer Center and Polo/Ralph Lauren, in order to cover the projected shortfalls in the facility's overall operation.

At the end of this three year period, the facility will address its ultimate viability and determine plans for its future.

DOH Recommendation

Approval for a 3-year limited life extension.

Need Summary

The Ralph Lauren Center opened in May 2003 to provide education, prevention and early detection and screening services for colon, prostate, cervical and breast cancer. Additionally, state-of-the-art outpatient cancer services are being provided to the residents of Harlem and the surrounding communities.

The Center is focused on meeting the needs of minority and low-income populations in Harlem. It is designed to serve as a prototype for cancer screening and treatment programs for medically underserved populations. The Center is a joint venture with Memorial Sloan-Kettering Cancer Center (MSKCC).

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

The applicant has demonstrated the capability to proceed in a financially feasible manner based on their ability to finance any losses, through their overall highly positive net asset position and the proposed grants they will be receiving from both Memorial Sloan Kettering of \$1,000,000 per year for the next three years and Polo/Ralph Lauren for \$1,800,000 per year for the next three years.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval for a limited life of 3 years from the date of issuance of an amended operating certificate is recommended.

Council Action Date

June 16, 2011.

Need Analysis

Background

Ralph Lauren Center for Cancer Care and Prevention (Center) is an Article 28 diagnostic and treatment center located at 1919 Madison Avenue, New York. The applicant seeks CON approval to extend its 3-year limited.

Analysis

Since 2005, the Center has shown steady growth in its outpatient visits. In 2005, the Center recorded 7,892 total visits. In 2007, gynecological services were added and in 2008, endoscopy and urological services were added. By 2009, these visits increased by 43.7% to 11,337 as indicated in Table 1. The applicant attributes its growth in outpatient utilization to its extensive outreach program, advertising, and expansion of clinical services.

As evidenced by its growth in patients' visits, the Center continues to meet its goals of addressing the health care needs of its service area via the use of its unique patient navigator system. The Patient Navigator System assists with the following:

- Insurance application process;
- Designate the use of grant funds and contributions;
- Application for hospital charity care; and
- Support from pharmaceutical assistance programs.

The Center also accepts referrals from its partner and other hospitals, local physicians, local federally qualified health centers, and diagnostic and treatment centers.

Table 1: Outpatient Utilization/Visits: Ralph Lauren Center for Cancer Care and Prevention				
<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
7,892	7,905	8,901	10,936	11,337

Source Institutional Cost Reports, 2005 -2009

The Table below shows that over the last 5 years, the majority of the Center's patients were enrolled in Medicaid Fee for Service, Medicaid Managed Care, and Medicare.

Table 2: Average Utilization Statistics by Payor: Ralph Lauren Center for Cancer Care and Prevention		
<u>Category</u>	<u>Average Visits ('05 – '09)</u>	<u>Percent</u>
Mcaid FFS – Regular Clinic	1,408	15.0
Mcaid Managed Care	2,045	21.8
Medicare Managed Care	309	3.3
Comm/Cap Managed Care	1,849	19.7
Medicare	1,337	14.2
Blue Cross Blue Shield	113	1.2
Commercial Insurance	518	5.5
Self Pay (Full Fee)	21	0.2
Self Pay (Partial Fee)	75	0.8
Free	844	9.0
Uninsured/Self Pay	37	0.4
Self Insured	838	8.9
Total	9,394	100.0

Source Institutional Cost Reports, 2005 -2009.

Conclusion

Ralph Lauren Center for Cancer Care and Prevention seeks approval to extend its 3-year limited life. The Center has been in operation for eight years and has served the Harlem community. Located in East Harlem, the Center offers its patients personalized attention and community outreach services. The staff consists of medical oncologists, oncology surgeons, nurses, patient navigators and social workers who help community residents to receive the best possible cancer care and screening in their own neighborhood.

Payor data show that the Center is serving the Medicaid population. Over the last 5 years, the facility has experienced significant growth in its outpatient visits, meeting its goals to serve the residents in its service area.

Recommendation

From a need perspective, approval for permanent life is recommended.

Programmatic Analysis

Background

Ralph Lauren Center for Cancer Care was formed via a joint venture agreement between North General Hospital and Memorial Sloan Kettering Cancer Center (MSKCC), operator of Memorial Hospital for Cancer and Allied Diseases. At this point North General Hospital is withdrawing from the joint venture, and thus MSKCC will be the sole member of the Center.

Services provided include: cancer detection and screening for breast, colon, lung, prostate and cervical cancer, and chemotherapy.

Staffing

Staffing will consist of 32 FTEs and includes physicians, technicians, therapists, social workers, and registered and licensed practical nurses under the supervision of a medical director.

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.

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 Statement of Operations, actual 2010 vs. projected for year one (2011) and Year Three (2013) are as follows:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Operating Revenue	\$4,080,449	\$2,364,168	\$2,508,146
Non-operating Revenue	<u>\$4,364,770</u>	<u>\$5,959,405</u>	<u>\$6,126,174</u>
Total Revenue	\$8,445,219	\$8,323,573	\$8,634,320
Total Expenses:	\$10,558,115	\$9,327,770	\$9,822,529

Excess (Deficiency) of Revenue over Expenses prior to Total Non Cash Expense adjustment:	(\$2,112,896)	(\$1,004,197)	(\$1,188,209)
Plus Total Non Cash Expense adjustment:	<u>\$1,217,891</u>	<u>\$1,203,648</u>	<u>\$1,203,648</u>
Adjusted Net Income/(Loss)	(\$895,005)	\$199,451	\$15,439
Visits:	<u>12,022</u>	<u>14,216</u>	<u>15,082</u>
Cost Per visit:	\$878.23	\$656.15	\$651.28

Utilization by payor source for the year's 2007, 2008, 2009 and 2010, and Year 1 and Year 3 projections are as follows:

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	Year 1 <u>2011</u>	Year 3 <u>2013</u>
Medicaid Fee-For-Service	18.05%	10.79%	8.27%	9.77%	9.83%	9.83%
Medicaid Managed Care	21.82%	26.26%	25.88%	34.92%	33.65%	33.66%
Medicare Fee-For-Service	13.35%	9.97%	12.91%	11.67%	11.38%	11.38%
Commercial Insurance	20.10%	20.40%	22.43%	15.16%	14.65%	14.65%
Self Pay	5.70%	3.41%	3.46%	2.39%	2.41%	2.41%
NYSP	12.18%	14.21%	7.11%	6.94%	7.07%	7.07%
Grant	8.80%	14.96%	19.94%	19.16%	21.01%	21.01%

Capability and Feasibility

There are no issues of capability, as the facility is operating. The issue of feasibility is centered on the applicant's ability to offset expenses with revenues and maintain a viable operating entity.

Presented as BFA Attachment A are the 2007, 2008, 2009 certified financial summaries and the 2010 internal financial summary of Ralph Lauren Center for Cancer Care and Prevention. As shown on Attachment A, the facility had an average operational loss of \$4,795,709 over the period shown before grants and contributions, though it had an average positive working capital and net asset position during the period. With the grants over this same time period the facility had an average net loss of \$876,938. The facility however has a significant net asset balance to cover these losses; the balance as of 12/31/2010 is approximately \$6,288,890. It is noted that the facility leadership has been in discussions with Department staff over rate and financial issues critical to the ongoing feasibility of the facility.

The issue of feasibility is centered on the applicant's ability to offset expenses with revenues. The submitted budget indicates a net income of \$199,451 in year 1 and \$15,439 in Year 3, and assumes receipt of stated grant funds and the total non-cash expense adjustment. Revenues are based on current reimbursement methodologies for diagnostic and treatment services.

The applicant has complied and is current with cost report requirements. Currently, there are no outstanding Medicaid overpayment liabilities.

The applicant has demonstrated the capability to proceed in a financially feasible manner based on their ability to finance any losses, through their overall highly positive net asset position and the proposed grants they will be receiving from both Memorial Sloan Kettering of \$1,000,000 per year for the next three years and Polo/Ralph Lauren for \$1,800,000 per year for the next three years.

Recommendation

From a financial perspective, an extension of limited life for an additional three years is recommended.

Attachments

BFA Attachment A

Financial summary, Ralph Lauren Center for Cancer Care and Prevention



Public Health and Health Planning Council

Project # 092199-E
East Coast Rehabilitation, Inc.
d/b/a Columbus Center for Medical Rehabilitation

County: Rego Park (Queens)
Purpose: Establishment

Program: Diagnostic and Treatment Center
Submitted: October 16, 2009

Executive Summary

Description

East Coast Rehabilitation, Inc., d/b/a Columbus Center for Medical Rehabilitation, an existing Article 28 proprietary corporation and diagnostic and treatment center (D&TC) owned solely by Elliot Meisenberg, M.D., is requesting approval for permanent life. The original application, CON #001149-B, was approved by the Public Health Council on February 12, 2003, with a limited life of three years. However, due to the facility not being ready to begin operations at that time, approval by the Public Health Council was extended to five years from the date of initial operations, which was June 2005.

The facility, which is located at 1221 Jerome Avenue, Bronx, continues to operate under the original lease expiring November 30, 2012. The applicant has provided an executed addendum to the lease, stating there will be two additional five-year options for renewal.

DOH Recommendation

Approval.

Need Summary

Under CON project #001149-B, East Coast Rehabilitation was granted approval to operate with a five-year limited life certification, in order to enhance access to outpatient rehabilitative care for the residents of the South Bronx. To assist the Department in determining whether the D&TC is operating as described and approved in the CON application, the applicant was conditionally required to report annually on:

- the number and type of clinical visits by zip code of client residence;

- the number and type of clinical visits by payor;
- the impact on selected Ambulatory Care Sensitive Conditions pertinent to the population served, as well as any other critical health care issues in the service area, e.g., lead poisoning, cancer, immunization levels, etc; and
- the impact on continuity of care.

The facility submitted the appropriate data and information to the Department to satisfy this reporting condition.

Program Summary

East Coast Rehabilitation, Inc. is certified for and provides the following outpatient services at this site: primary care, audiology, physical therapy, social work services, medical rehabilitation, speech pathology, occupational therapy and psychology. There will be no change to staffing or services as a result of this action.

Financial Summary

The applicant has no outstanding audit liabilities and is in compliance with current cost reporting requirements. The applicant has not experienced any changes in ownership or legal agreements since inception.

Budget:	<i>Revenues:</i>	\$ 3,380,222
	<i>Expenses:</i>	<u>2,894,614</u>
	<i>Gain/(Loss):</i>	\$ 485,608

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval.

Council Action Date

June 16, 2011.

Need Analysis

Background

East Coast Rehabilitation is a federally-qualified Comprehensive Outpatient Rehabilitation Center (CORF). Dr. Elliot Meisenberg is the 100% owner of East Coast Rehabilitation, Inc.. There has been no change in ownership since the 2002 Public Health Council approval.

The facility has a continuing agreement with Abbate Demarinis, LLP, Certified Accountants & Consultants of Garden City, New York to certify the accuracy of its financial books and records. The agreement includes the facility's annual cost reports that are required to be submitted to the New York State Department of Health. The facility also requested that Abbate Demarinis, LLP verify and report on the accuracy of East Coast Rehabilitation's number and type of clinical visits by zip code of client residence and by payer, for each year of operation beginning in the second year of operation.

Data submitted by the facility for the years 2005 to 2009 show that the majority of its patient's zip code of origin came from the service area that was defined in the original CON. During period, the total number of clinic visits from the facility's primary service area ranged from 76.0 percent to 83.0 percent.

The applicant indicates that the projected number of procedures for years one and three were 12,843 and 18,250, respectively. The following visits and procedures show that the applicant met and/or exceeded the projections.

East Coast Rehabilitation: Clinic Visits and Procedures		
<u>Year</u>	<u>Visits</u>	<u>Procedures</u>
2005	3,718	6,053
2006 (first full year of operation)	7,866	12,892
2007	14,302	22,035
2008	16,636	22,494
2009	15,667	24,954

The CON approval was premised on the following *proposed* percentage of payor mix:

<u>Payor Source</u>	<u>Year 1</u>	<u>Year 3</u>
Medicaid - M/C	13 %	17 %
Medicaid - FFS	8 %	4 %
Medicare - M/C	10 %	13 %
Medicare - FFS	30 %	27 %
Commercial	34 %	34 %
Self Pay	5 %	5 %

East Coast Rehabilitation, Inc. experienced the following pay or mix over the years:

<u>Payor</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Medicaid	35%	23%	31%	23%
Medicare	26%	46%	38%	34%
BC/BS	3%	4%	2%	2%
Commercial	33%	21%	29%	40%
Free/Self-Pay	2%	6%	0%	1%

The utilization by payor, which varies years by year, generally meets the proposed percentages set forth in the original CON.

While the facility's internal medicine physician delivers ordinary primary care as needed, this constitutes only about five percent of patient visits. Because East Coast Rehabilitation is primarily a Comprehensive Outpatient Rehabilitation Facility (CORF), its principal services are rehabilitative, which by their nature do not directly impact Ambulatory Care Sensitive Conditions (ACSC's) prevented or ameliorated by regular primary care. The vast majority of the facility's clients need rehabilitative services because of strokes, surgery, multiple joint diseases, joint replacement, spinal cord injury, brain injury, multiple co-morbidities, multiple conditions due to trauma, and coronary conditions. In this context, the major scope of the facility's primary medical care is in the service of the internal medicine physician in support of the physiatrist and rehabilitation team. However, the clinic states that it promotes continuity of care by making and keeping contact with the patient's own primary care physician. The clinic's provision of primary care is thus complementary and serves as a bridge back to the community-based primary care setting, which serves the patient's primary care needs on a regular basis.

Conclusion

East Coast Rehabilitation seeks CON approval for permanent certification as an Article 28 Diagnostic and Treatment Center. The original CON was approved with several conditions placed on the applicant. Based on information submitted by the applicant, it is determined that the facility has satisfactorily met each of those conditions.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

East Coast Rehabilitation, Inc. requests approval to be granted for permanent life.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

Character and Competence

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.

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 2011 dollars, for the current year and years one and three of operation subsequent to receiving a permanent life, which is summarized below:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Revenues	\$3,093,382	\$3,186,183	\$3,380,222
Expenses:			
Operating	\$2,535,647	\$2,595,879	\$2,595,879
Capital	<u>289,582</u>	<u>294,094</u>	<u>298,735</u>
Total Expenses	\$2,825,229	\$2,889,973	\$2,894,614
 Net Income	 \$268,153	 \$296,210	 \$485,608
 Utilization (procedures)	 25,318	 26,078	 27,666
Cost per procedure	\$111.59	\$110.82	\$104.63

CON #001149-B contained target volumes that were calculated based on the number procedures each full time equivalent provided in a one-year period, not visits, as stated in the original staff report approved in 2002. Based on that information, the Center has met and surpassed the projected volume of procedures that were approved in the original CON submission.

Utilization by payor source for the current year and year's one and three are as follows:

	<u>Current Year, Year One and Three</u>
Commercial	40.1%
Medicare	29.8%
Medicaid Fee for Service	18.1%
Medicaid Managed Care	11.0%
Private Pay	1.0%

Expense and utilization are based on the historical experience of East Coast Rehabilitation, Inc. in providing the existing services.

Capability and Feasibility

There are no project costs associated with this application.

Presented as BFA Attachment A, are the 2005 through 2009 financial summaries of East Coast Rehabilitation, Inc. Presented as BFA Attachment B, is the draft financial summary of East Coast Rehabilitation, Inc. as of December 31, 2010. The facility experienced average negative working capital, negative stockholders equity, and net losses have been \$851,404, \$789,858, \$377,031, \$58,652 and \$361,211 for the years 2005, 2006, 2007, 2008 and 2009, respectively. As of December 31, 2010, the facility has been able to maintain a net income of \$358,359.

Management has been able to stabilize expenses through efficiencies based on experience, including lower legal, consulting and accounting fees, no new equipment expenditures, and no anticipated new liabilities. The facility has seen an increase in utilization as a result of increased community awareness and its reputation of providing quality services.

Dr. Meisenberg is fully committed to funding the operations if the need arises. Presented as BFA Attachment C, is the net worth statement for Dr. Meisenberg, which shows sufficient funds for this purpose.

It appears that the applicant has demonstrated the capability to proceed in a financial feasible manner, and approval of permanent life is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	2005 – 2009 Financial Summary, East Coast Rehabilitation, Inc.
BFA Attachment B	Draft Financial Summary as of December 31, 2010, East Coast Rehabilitation, Inc.
BFA Attachment C	Personal Net Worth Statement
BHFP Attachment	Map



Public Health and Health Planning Council

Project # 101103-B
Queens Medical Pavilion, LLC

County: Queens (Forest Hills)
Purpose: Establishment and Construction

Program: Diagnostic and Treatment Center
Submitted: April 5, 2010

Executive Summary

Description

Queens Medical Pavilion, LLC, a proposed limited liability company, requests approval to establish and construct a diagnostic and treatment center (D&TC), to be located in leased space at 69-15 Austin Street, Forest Hills. The Center will serve the residents of Queens County, and provide a wide array of services, including Health Fairs, Medical/Social Services, Nutritional, Physical Medicine and Rehabilitation, Podiatry, Primary Medical Care, Psychology, Physical Therapy and Diagnostic Radiology.

The proposed members of Queens Medical Pavilion, LLC are Matthew Weiss (50% owner) and Steven Soifer (50% owner).

Total project costs are estimated at \$293,593.

DOH Recommendation
Contingent approval.

Need Summary

The applicant reports that approval of this project will enhance accessibility and provide a centralized location of services for the service area. Based on Department of Health data, there are two diagnostic and treatment centers and one hospital, Forest Hills Hospital, in the proposed service area. There are four more hospitals, Jamaica Hospital Medical Center, Elmhurst Hospital Center, Flushing Hospital Medical Center, and New York Hospital Medical Center of Queens within a 2.18 mile radius of the proposed site in zip code 11375. In late 2008 and early 2009, Parkway Hospital, Mary Immaculate Hospital, and St. Johns Hospital of Queens closed.

Emergency Department (ED) utilization at Forest Hills Hospital increased between 2007 and 2009. In addition, the number of clinic visits increased between

2006 and 2008. Eight area hospitals in Queens County also had an increase in ED utilization during these years.

One in four adults in West Central Queens (WCQ) is currently uninsured or went without health insurance at sometime in the past year. (Source: WCQ of the 'Community Health Profiles-2006' of the New York City Department of Health and Mental Hygiene)

Program Summary

The applicant is negotiating a transfer and affiliation agreement for emergency and back-up services with North Shore Forest Hills Hospital, which is 0.76 miles or 3 minutes in travel time from the Center.

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

Financial Summary

Project costs will be met with equity of \$75,253 and a bank loan of \$218,340 (10 yrs. @ 8.0%).

Budget:	<i>Revenues:</i>	\$ 3,969,523
	<i>Expenses:</i>	<u>3,690,589</u>
	<i>Gain/(Loss):</i>	\$ 278,934

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

Architectural Summary

This facility will be comprised of 10 exam rooms on the first floor of a one-story building, and will have an area of 6,649 SF. Some renovations to the existing diagnostic and treatment center are proposed.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of 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 transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital.[HSP]
3. Submission of a loan commitment that is acceptable to the Department. [BFA]
4. Submission of a working capital loan commitment that is acceptable to the Department. [BFA]
5. Submission of an executed building sublease extension acceptable to the Department. [BFA]
6. Submission of a Certificate of Amendment of the Articles of Organization that is acceptable to the Department. [CSL]
7. Submission of an Operating Agreement that is acceptable to the Department. [CSL]
8. Submission of a fully executed Lease agreement that is acceptable to the Department. [CSL]

Approval conditional upon:

1. Submission of the marketing and advertising plan to the Department detailing information on the community outreach programs.[RNR]
2. Submission of a plan to significantly increase the level of services to Medicaid and uninsured patients in the service area.[RNR]
3. Submission of quarterly and annual reports to the Department beginning in the second year of operation. The information in these reports must include, but not necessarily be limited to the following:
 - The number and type of clinical visits by zip code of patient residence to assist the Department in determining whether services are being provided predominantly to residents of the service area, in this case Queens County.
 - The number and type of clinical visits by payor to assist the Department in determining the payor mix of the area. [RNR]
4. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
5. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
6. The applicant shall complete construction by February 28, 2013. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

Queens Medical Pavilion, LLC proposes to provide the following services:

Health Fairs	Medial Social Services O/P	Nutritional O/P
Physical Medicine and Rehabilitation O/P	Podiatry O/P	Primary Medical Care O/P
Psychology O/P	Physical Therapy O/P	Radiology Diagnostic O/P

The numbers for projected visits by the applicant are as follows:

<u>Projections per CON</u>	<u>Annual Visits</u>
Current Year:	0
First Year:	10,472
Third Year:	23,272

Analysis

The Primary Service Area for this project includes the following zip codes: 11374, 11375, 11379, and 11385. These neighborhoods are Forest Hills, Glendale, Middle Village, Rego Park, and Ridgewood in West Central Queens (WCQ) as described in the New York City Health and Mental Hygiene-NYCDOHMH-Community Profile.

Population and Prevention Quality Indicators (PQIs) (Source: Office of Health Insurance Programs (OHIP), 2008)
Based on the OHIP data, of the 240,901 residents in the four zip code service area, a total of 48,696 or 20 percent of the population is enrolled in Medicaid. Of these Medicaid enrollees, 27,014 or 55 percent are enrolled in HMOs and the remaining 21,682 or 45 percent are enrolled in the fee-for-service Medicaid plan.

These Medicaid clients generated 119,308 primary care visits in 2008. This equals 5.50 primary care visits per Medicaid client vs. 5.77 visits statewide.

This service area is served by 73 physicians.

The rates for the following PQIs in the service area are poorer than those for the State as a whole:

1. Pediatric asthma
2. Pediatric gastroenteritis,
3. Urinary tract infection,
4. Angina without procedure,
5. Uncontrolled diabetes, and
6. Adult asthma

The rates for the following PQIs in the service area are better than those for the State as a whole:

1. Diabetes short-term complication
2. Perforated appendix (Percentage of appendix discharges)
3. Diabetes long-term complication
4. Chronic obstructive pulmonary disease
5. Hypertension
6. Congestive heart failure
7. Low birth weight (Percentage of Births)
8. Dehydration
9. Bacterial pneumonia
10. Lower-extremity amputation among patients with diabetes

Data for PQIs in the service are as presented below.

<u>PQI Rates</u>		<i>Adjusted Rate</i>	<i>State-Rate</i>	<i>Percent Difference</i>
1	Diabetes short-term complication	19.17	37.24	-48.54%
2	Perforated appendix (Percentage of appendix discharges)	23.82	27.00	-11.77%
3	Diabetes long-term complication	102.30	105.85	-3.35%
4	Pediatric asthma	73.90	72.59	1.81%
5	Chronic obstructive pulmonary disease	149.81	156.96	-4.56%
6	Pediatric gastroenteritis	76.06	31.25	143.40%
7	Hypertension	38.44	40.21	-4.40%
8	Congestive heart failure	289.43	334.36	-13.44%
9	Low birth weight (Percentage of Births)	4.80	5.75	-16.50%
10	Dehydration	123.82	131.81	-6.06%
11	Bacterial pneumonia	284.45	332.18	-14.37%
12	Urinary tract infection	148.50	139.25	6.65%
13	Angina without procedure	53.37	49.25	8.37%
14	Uncontrolled diabetes	31.45	29.95	5.02%
15	Adult asthma	130.57	126.00	3.63%
16	Lower-extremity amputation among patients with diabetes	24.97	30.14	-17.14%

West Central Queens-WCQ-Health Profile

The findings for the WCQ of the 'Community Health Profiles-2006' of the New York City Department of Health and Mental Hygiene are as follows:

- A total of 16 percent of the population is the elderly (ages 65 and over).
- The WCQ population is comprised of Hispanics at 22 percent, followed by Asians at 13 percent, and Africans at 2 percent; more than half or 60 percent of this population is white.
- One in four adults in WCQ is currently uninsured or went without health insurance at sometime in the past year.
- Nineteen (19%) percent of the WCQ population does not have a regular health care provider.
- Women in WCQ are less likely to get cancer screenings for breast and cervical cancer than women in NYC overall.
- Hospitalization for falls among older adults, as well as related hip fractures, are more common in WCQ than in NYC overall.
- Four in 10 WCQ residents report doing no physical activity at all.
- Immunization rates for pneumonia are lower than those for flu across NYC. Less than half of older adults in WCQ have ever received the pneumonia immunization.

ED Utilization at Forest Hills Hospital

ED utilization at Forest Hills Hospital increased between 2007 and 2009 as follows:

2007 ED Visits: 29,682	ED Visits per Day: 81
2008 ED Visits: 30,958	ED Visits per Day: 85
2009 ED Visits: 42,799	ED Visits per Day: 117

ED Utilization at Forest Hills Hospital and Seven Area Hospitals in Queens County:

(Seven Area Hospitals are 1. City Hospital Center-Elmhurst, 2. Flushing Hospital Med Ctr-Flushing, 3. Jamaica Hospital Medical Center-Jamaica, 4. Long Island Jewish Med Ctr-New Hyde Park, 5. Mt Sinai Hosp Queens, 6. New York Hosp Med Ctr Queens, and 7. Queens Hospital Center-Jamaica).

The table below presents increase in ED visits per day as well as percent increase in total ED visits at Forest Hills Hospital and at each of the seven area hospitals between 2008 and 2009.

<u>ED Utilization</u> (Source: SPARCS 2008-09)	<i>Change in ED Visits from 2008-09</i>	
	<i>Change in ADC</i>	<i>% Change in ED Visits</i>
N Shore Univ Hosp At Forest Hills-Forest	33	38.2%
City Hospital Center-Elmhurst	38	11.5%
Flushing Hospital And Med Ctr-Flushing	14	12.2%
Jamaica Hospital Medical Center-Jamaica	37	12.1%
Long Island Jewish Med Ctr-New Hyde Park	53	29.3%
Mt Sinai Hosp Of Queens-Long Island City	8	6.8%
New York Hosp Med Ctr Of Queens-Flushing	45	18.1%
Queens Hospital Center-Jamaica	49	23.4%

The following tables provide detail data on ED utilization at these eight hospitals in Queens County:

<u>ED Utilization</u> (Source: SPARCS 2007-09)	<i>Change in ED Visits from 2008-09</i>		<i>Change in ED Visits from 2007-08</i>	
	<i>Change in ADC</i>	<i>% Change in ED Visits</i>	<i>Change in ADC</i>	<i>% Change in ED Visits</i>
N Shore Univ Hosp At Forest Hills-Forest	33	38.2%	3	4.3%
City Hospital Center-Elmhurst	38	11.5%	- 5	- 1.2%
Flushing Hospital and Med Ctr-Flushing	14	12.2%	7	6.4%
Jamaica Hospital Medical Center-Jamaica	37	12.1%	- 6	- 1.8%
Long Island Jewish Med Ctr-New Hyde Park	53	29.3%	18	11.9%
Mt Sinai Hosp Of Queens-Long Island City	8	6.8%	6	5.5%
New York Hosp Med Ctr of Queens-Flushing	45	18.1%	10	4.4%
Queens Hospital Center-Jamaica	49	23.4%	9	5.0%

<u>ED Utilization</u> (Source: SPARCS 2007-09)	<i>2007</i>			
	<i>Total ED Visits</i>	<i>ED Only</i>	<i>ED to Inpatient %</i>	<i>ED Visits/Day</i>
N Shore Univ Hosp at Forest Hills-Forest	29,682	20,263	31.7	81
City Hospital Center-Elmhurst	117,334	99,239	15.4	321
Flushing Hospital and Med Ctr-Flushing	38,893	29,348	24.4	107
Jamaica Hospital Medical Center-Jamaica	111,422	92,418	16.9	305
Long Island Jewish Med Ctr-New Hyde Park	58,234	42,479	26.8	160
Mt Sinai Hosp Of Queens-Long Island City	41,368	27,851	21.4	113
New York Hosp Med Ctr of Queens-Flushing	86,375	68,119	21.1	237
Queens Hospital Center-Jamaica	71,541	59,929	16.2	196

<u>ED Utilization</u> (Source: SPARCS 2007-09)	2008			
	<u>Total ED Visits</u>	<u>ED Only</u>	<u>ED to Inpatient %</u>	<u>ED Visits/Day</u>
N Shore Univ Hosp at Forest Hills-Forest	30,958	21,606	30.2	85
City Hospital Center-Elmhurst	115,890	98,075	15.4	317
Flushing Hospital and Med Ctr-Flushing	41,392	29,636	28.3	113
Jamaica Hospital Medical Center-Jamaica	109,383	89,811	17.8	299
Long Island Jewish Med Ctr-New Hyde Park	65,158	47,740	26.4	178
Mt Sinai Hosp Of Queens-Long Island City	43,660	31,111	20.8	119
New York Hosp Med Ctr of Queens-Flushing	90,190	67,222	24.0	246
Queens Hospital Center-Jamaica	75,142	63,033	16.1	205

<u>ED Utilization</u> (Source: SPARCS 2007-09)	2009			
	<u>Total ED Visits</u>	<u>ED Only</u>	<u>ED to Inpatient %</u>	<u>ED Visits/Day</u>
N Shore Univ Hosp at Forest Hills-Forest	42,799	30,767	28.1	117
City Hospital Center-Elmhurst	129,267	109,539	15.3	354
Flushing Hospital and Med Ctr-Flushing	46,457	34,014	26.7	127
Jamaica Hospital Medical Center-Jamaica	122,585	101,436	17.2	336
Long Island Jewish Med Ctr-New Hyde Park	84,261	65,349	22.2	231
Mt Sinai Hosp Of Queens-Long Island City	46,641	34,911	20.8	128
New York Hosp Med Ctr of Queens-Flushing	106,505	79,689	25.1	292
Queens Hospital Center-Jamaica	92,701	80,220	13.5	254

Clinic Visits at Forest Hills Hospital

<u>ICR 2006-08</u>	<u>Clinic</u>	<u>Difference From-To</u>	<u>% Difference</u>
2006	7,537		
2007	8,444	2006-07	12.0%
2008	8,890	2007-08	5.3%

Conclusion

Between 2007 and 2009, ED utilization increased at all eight Queens hospitals. Emergency department visits at Forest Hills Hospital increased by 44 percent during this three-year period, while regular clinic visits also grew. This increased utilization and the persistence in the proposed service area of several PQI's at levels higher than the State average, including asthma and diabetes, indicate the need for additional primary care services in that location.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

The Center will be in operation Monday through Friday from 8:00 a.m. to 6:00 p.m.

Staff, under the supervision of Bhaskar Reddy Yeturo, as medical director, will initially consist of 16 FTEs and is projected to expand to 28 FTEs by the end of the third year, including 4.5 FTE physicians, 3.3 FTE therapists, .4 FTE social workers, and 2 FTE nurses.

A transfer and affiliation agreement for emergency, inpatient and back-up support services is being negotiated with North Shore Forest Hills, which is three minutes and 0.76 miles from the Center. An answering machine, with access to center staff, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The applicant has attested to compliance with the following: the governing body and medical staff will develop, maintain, and periodically review a list of policies and procedures that will ensure that services performed at the facility will conform to generally accepted standards of practice. The Center's admissions policy will include anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, and source of payment. All services will be performed in compliance with all applicable federal and state rules, including standards for credentialing, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

Character and Competence

The Managing Members are:

Steven Soifer 50%

Matthew Weiss 50%

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

Conclusion

The above reviews revealed nothing which 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 sub-sublease rental agreement for the site to be occupied, the terms of which are summarized below:

<i>Premises:</i>	6,600 square feet located at 69-15 Austin Street, Forest Hills, New York
<i>Lessor:</i>	Cord Meyer Development Corp.
<i>Lessee:</i>	Layben Realty Corp.
<i>SubLessee/SubLessor:</i>	Medical Marketing Development, Inc.
<i>SubSublessee/SubLessor:</i>	S.L. HealthCare Management, Inc.
<i>Subsublessee assignee/assignor:</i>	Total Healthcare Management, Inc.
<i>Subsublessee/assignee:</i>	Queens Medical Pavilion, LLC

<i>Term:</i>	Lease expires April 1, 2012. Currently no renewal option in place - in negotiations.
<i>Rental:</i>	2010 (\$200,991), 2011 (\$207,020) and 2012 (\$213,231)
<i>Provisions:</i>	The tenant shall be responsible for maintenance and utilities.
<i>Type:</i>	Arm's length

The applicant has submitted an affidavit indicating that the lease arrangement will be an arm's length lease arrangement, since there is no relationship between the landlord and the tenant. It is noted that the current lease expires in April 2012. As a contingency to approval, the applicant must submit an acceptable lease extension demonstrating site control for a minimum of ten years.

Total Project Cost and Financing

Total project cost for renovations and the acquisition of moveable equipment is estimated at \$293,593, broken down as follows:

Renovation and Demolition	\$52,500
Design Contingency	5,250
Construction Contingency	5,250
Architect/Engineering Fees	4,200
Other Fees (Consultant)	50,000
Moveable Equipment	105,000
Telecommunications	52,500
Financing Costs	13,735
Interim Interest Expense	1,563
CON Fees	2,000
Additional CON Fees	<u>1,595</u>
Total Project Cost	<u>\$293,593</u>

Project costs are based on an October 1, 2011 construction start date and a two month construction period. The applicant's financing plan appears as follows:

Equity	\$ 75,253
Bank Loan (8% interest rate for a 10 year term)	218,340

Operating Budget

The applicant has submitted an operating budget, in 2010 dollars, for the first and third years of operations, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,819,999	\$3,969,523
Expenses:		
Operating	\$1,752,641	\$3,468,880
Capital	<u>221,709</u>	<u>221,709</u>
Total Expenses	\$1,974,350	\$3,690,589
Net Income	<u>\$(154,351)</u>	<u>\$278,934</u>
Utilization: (visits)	10,472	23,272
Cost Per Visit	\$188.53	\$158.59

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

	<u>Year One</u>	<u>Year Three</u>
Medicaid Fee For Service	10%	5%
Medicaid Managed Care	9%	15%
Medicare	35%	35%
Commercial Insurance	36%	36%
Private Pay	8%	7%
Charity Care	2%	2%

Expense and Utilization assumptions are based on the historical experience of similar facilities in the geographical area.

Capability and Feasibility

The issue of capability is centered on the applicant's ability to meet the total project cost and the working capital requirements and to initiate operations as a financially viable entity.

The applicant will finance \$218,340 via a bank loan at the stated terms. The remainder, \$75,293, will be provided as equity by the proposed members of Queens Medical Pavilion, LLC.

Working capital requirements, estimated at \$615,098, appear reasonable based on two months of third year expenses. The applicant has submitted a letter of interest to finance \$307,549 at an interest rate of 5% for a 5 year term. The remainder, \$307,549, will be provided as equity by the proposed members of Queens Medical Pavilion, LLC. Presented as BFA Attachment A, is a summary personal net worth statement for the proposed members of Queens Medical Pavilion, LLC, which indicates the availability of sufficient funds for the stated purposes. Presented as BFA Attachment B, is the pro forma balance sheet of Queens Medical Pavilion, LLC, which indicates positive members' equity position of \$380,329 as of the first day of operation.

The issue of feasibility is centered on the applicant's ability to offset expenses with revenues. The submitted budget projects a net income of \$(154,351) and \$278,934 during the first and third years of operation. The first year loss will be offset by working capital loans and the personal resources of the proposed shareholder. Medicare revenues are based on current reimbursement methodologies, while Medicaid revenues are based on the recently promulgated APG Medicaid rate reimbursement methodology. All other revenues are based on current reimbursement rates received in the area of the proposed D&TC.

The applicant has indicated that upon approval it will contract with managed care companies.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

This facility will be on the first floor of a one story building. The facility will have an area of 6,649 SF and will include the following: ten exam rooms. The facility will consist of a waiting and reception area, 10 exam rooms, rehab area with 11 patient treatment bays, clean utility room, soiled utility room, x-ray room with dark room, staff lounge, 5 toilet rooms, an office and a chart/file room.

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this

project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement
BFA Attachment B	Pro Forma Balance Sheet- Queens Medical Pavilion, LLC
BFA Attachment C	Establishment Checklist for Ambulatory Care Sites



Public Health and Health Planning Council

Project # 102159-B
ParCare Community Health Network

County: Kings (Brooklyn)

Program: Diagnostic and Treatment Center

Purpose: Establishment and Construction

Submitted: August 31, 2010

Executive Summary

Description

ParCare Community Health Network (ParCare), requests approval for the purchase of ownership of an existing private practice operated by Parkville Medical, P.C., located at 445 Park Avenue, Brooklyn, and converting it to an Article 28 diagnostic and treatment center (D&TC). The applicant, upon approval, will apply for Federally Qualified Healthcare Center (FQHC) designation.

The change in ownership will allow ParCare to provide expanded primary care services to include: radiology (ultrasound); speech therapy; nephrology (medical only); rheumatology; neurology; medical social services; nutritional evaluations; ophthalmology services; optometry outpatient, pediatrics outpatient, physical and occupational therapy, well child care; health education; electrocardiogram; and cardiac stress tests (non-nuclear); primary medical care; psychology outpatient; and urology. Also, the location of this facility will remain in the same space that it currently occupies.

Total project costs are estimated at \$22,625.

DOH Recommendation

Contingent approval for a 5-year limited life.

Need Summary

ParCare Community Health Network requests approval to establish and construct a D&TC to serve the Bushwick/Williamsburg and Central Brooklyn service areas. All 107 census tracts of this area are designated as Health Professional Shortage Areas (HPSAs) for primary medical care.

Asthma, cancer, diabetes, heart disease, and stroke are the leading causes of death and disability in this service area.

Program Summary

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

Financial Summary

Total project costs are for legal and consulting fees, and will be met via cash of \$2,263 and a loan of \$20,362 (7 yrs. @ 8%). Also, ParCare Services, Inc. will contribute assets worth \$1,200,000, composed of equipment. To ParCar Community Health Network.

Budget:	Revenues:	\$ 2,811,388
	Expenses:	<u>2,745,458</u>
	Gain/(Loss):	\$ 65,930

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

Architectural Summary

The applicant seeks approval to establish and construct a D&TC in 5,000 SF on the 1st floor at 445 Park Avenue, Brooklyn, within the Williamsburg community. This space comprises an existing physician's practice.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval for a limited life of 5 years from the date of issuance of an operating certificate is recommended contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a written commitment that at least 5 percent of total visits to the approved extension clinics annually will be uninsured or under-insured patients by the second year of operation. [RNR]
3. Submission of a written agreement that the percentage of total visits annually by Medicaid managed care and fee-for-service beneficiaries, in the aggregate, to the approved extension clinics, will be at least 60 percent. [RNR]
4. Submission of a written commitment that at least 50 percent of total visits to the approved extension clinics will be for primary care. [RNR]
5. Written acknowledgement, executed by the governing body, that the third year of operation the approved extension clinics will achieve at least Level 1 practice certification under the NCQA Patient-Centered Medical Home standards and guidelines. [RNR]
6. Submit a comprehensive plan to achieve the "Prevention Agenda's 2013 Objectives" in the identified service area. [RNR]
7. Submission of a letter of agreement to provide annual reports to the Department beginning in the second year of operation that track the applicant's progress in achieving the "Prevention Agenda's 2013 Objectives". [RNR]
8. Submission of an executed building lease acceptable to the Department. [BFA]
9. Submission of a loan commitment acceptable to the Department. [BFA]
10. Submission of a working capital loan commitment acceptable to the Department. [BFA]
11. Submission of a photocopy of a fully executed and dated Certificate of Amendment to the applicant's Certificate of Incorporation, which must be acceptable to the Department. [CSL]

Approval conditional upon:

1. This project has been conditionally approved based on an Architect's/Engineer's Letter of Certification for Inspecting Existing Buildings signed and submitted Mr. Francis C. Gunther, RA, of Perkins Eastman, dated October 18, 2010 and schematic drawings dated October 18, 2010.

Council Action Date

June 16, 2011.

Need Analysis

Background

The proposed service area consists of the following zip codes: 11205, 11206, 11211, 11216, and 11221, that constitutes the Williamsburg/Bushwick/Central Brooklyn community.

The services to be provided include:

Primary Medical Care	Prenatal Care
Medical Social Work	Psychology
Nutrition	Diagnostic Radiology
Ophthalmology	Occupational Therapy
Optometry	Physical Therapy
Pediatrics	Speech Language Pathology
Physical Medicine and Rehabilitation	Well Child Care
Podiatry	

Parkville Medical, P.C. started operations in October 2008 to help meet the healthcare needs of the local residents and to build a patient base as a step toward the goal of establishing a D&TC and receiving designation as a Federally Qualified Health Center (FQHC). The private practice currently provides primary medical services, sleep disorder services, and physical therapy services. This project proposes the conversion of the private practice to a D&TC.

The applicant states that the sleep disorder services will not be part of the project.

Analysis

In the first full calendar year of operations (2009), the private practice experienced 28,934 patient visits (excluding sleep disorder services). A total of 17,734 of these patient visits, 61 percent, were for Medicaid patients.

The applicant states that through this application they will implement expanded services and programs that the P.C. cannot afford to offer at current reimbursement levels in the private practice of medicine. The proposed expanded services include:

1. Improved access for medically underserved populations, including persons covered by Medicaid.
2. Implementation of the "Patient-Centered Medical Home" (PCMH) model of care.
3. Implementation of a "Chronic Care Model" as part of the PCMH.
4. Development of a "Wellness Center" as part of the PCMH.
5. Development of a "Women's Health Initiative" program.
6. Enhanced number of physicians and other support staff.
7. Expansion of the number of primary medical sub-specialties at the site.
8. Expansion of the hours of operation for the site.
9. Increased collaboration with the local community.

Parcare reports that the proposed primary service area (PSA) consists of five zip codes (11205, 11206, 11211, 11216, and 11221) with a population of 351,608. ParCare states that its target population is the PSA's low-income population (<200% of the Federal Poverty Level-FPL) with a focus on the needs of the bilingual and culturally unique members of the medically underserved population subgroups.

The applicant reports that the low-income population of the five combined zip codes is 189,904, which was 60.2 percent in 2000 (Source: HRSA Geospatial website). The low-income population is ParCare's target population for providing comprehensive preventive and primary medical care. If the percentage of the low-income population has remained the same since 2000, applying this percentage to the Claritas population estimates for 2010 equals a total PSA population of 351,608 and a low-income population of 211,668 for 2010.

The total population and low-income population for HRSA's Geospatial website are as follows:

<u>Zip Code</u>	<u>Total Pop</u>	<u>Low Income Pop 2000</u>	<u>% Low Income Pop</u>
11221	75,309	43,118	58.3%
11216	56,635	28,349	50.5%
11211	84,913	55,210	65.2%
11206	69,385	45,024	66.6%
11205	35,226	18,203	54.7%
<i>Summary</i>	<i>341,468</i>	<i>189,904</i>	<i>60.2%</i>

SOURCE: HRSA

Relative to census tract delineation and federal designations, the PSA is comprised of 107 census tracts in total. Ninety-two of the total census tracts, a 86 percent, are federally-designated by HRSA's Shortage Designation Branch (SDB) as Medically Underserved Areas (MUA), of which MUA/P is the base tenet for FQHC development (Source: HRSA Geospatial website). Further, all 107 census tracts are federally-designated as Health Professional Shortage Areas-Geographic Area (HPSA) for Primary Medical Care relative to the total, general civilian population, not any specific population group. Clearly, with MUA and HPSA designations throughout the PSA, there is a void in primary medical care access, and there continues to be an insufficient number of primary care providers as indicated by both MUA and HPSA designations. ParCare's service site at 445 Park Avenue in Brooklyn, New York, 11205, is located in census tract 237.00, which is both MUA and HPSA-designated.

Prevention Quality Indicators

The PQI's are the rates of admission to the hospital for conditions for which good outpatient care can potentially prevent the need for hospitalization, or for which early intervention can prevent complications or more severe disease.

The overall PQI admission rate in the PSA is 3,363 admissions per 100,000 compared to the statewide rate of 1,854 admissions per 100,000. The PQI admission rate in the PSA is 181 percent higher than the statewide rate.

Prevention Quality Indicator (PQI) Statistics for the PSA						
<i>PQI Conditions</i>	<i>PQI #</i>	<i>Statewide Rate/100,000</i>	<i>Area Age & Sex Adjusted Rate /100,000</i>	<i>Admissions as % of Expected by Race/Ethnicity</i>		
				Overall	Hispanic	Black
All Conditions		1,854	3,363	181%	120%	216%
Acute						
Bacterial Pneumonia	11	381	459	121%	84%	133%
Dehydration	10	116	130	112%	57%	135%
Urinary Tract Infection	12	169	204	121%	91%	116%
All Acute		666	793	119%	81%	129%
Circulatory						
Angina	13	50	171	343%	140%	316%
Congestive Heart Failure	8	443	785	177%	102%	227%
Hypertension	7	61	178	293%	159%	401%
All Circulatory		554	1,149	207%	114%	257%
Diabetes						
Short-term Complication	1	52	89	172%	91%	253%
Long-term Complication	3	155	400	258%	191%	317%
Lower Extremity Amputation	16	37	85	228%	194%	256%
Uncontrolled Diabetes	14	39	139	360%	305%	446%
All Diabetes		283	709	251%	185%	315%
Respiratory						
Asthma	15	174	499	287%	192%	344%
COPD	5	178	167	94%	70%	110%
All Respiratory		351	696	198%	138%	233%

The PQI admission rate for the Hispanic population is 120 percent higher than the statewide rate. The PQI admission rate for the Black population is 216 percent of the statewide admission rate.

ParCare projects that Medicaid will account for 69.9 percent of the proposed utilization, and charity care will account for 2.1 percent of utilization.

ParCare Community Health Network	
Projected Utilization by Payer for 1st Year of Operation	
<u>Payer</u>	<u>% Utilization</u>
Commercial FFS	8.6%
Medicare FFS	10.8%
Medicare MC	1.3%
Medicaid FFS	11.0%
Medicaid MC	58.9%
Self-Pay	5.2%
Charity Care	2.1%
All Other	2.1%
Total	100.0%

Projected Utilization by Service Category for 1st Year of Operation	
Primary Medical Care O/P	15,599
Pediatrics O/P	466
Well Child Care	930
Prenatal O/P	4,700
Optometry O/P	70
Ophthalmology O/P	499
Physical Medicine & Rehab O/P	1,226
Podiatry O/P	2,315
Psychology O/P	2,605
Medical Social Services O/P	728
Nutritional O/P	2,610
Therapy-Physical O/P	1,703
Therapy-Occupational O/P	213
Therapy-Speech Language Pathology O/P	158
Ultrasound	105
Electrocardiogram	250
Cardiac Stress Test(non-nuclear)	62
Health Education	1,596
Total	35,835

Target Population by Zip Code								
	0 to 17	18 to 34	35 to 54	55 to 64	65 to 74	75 to 84	84 plus	Total
11205	9,620	11,978	8,736	2,508	1,636	878	266	35,622
11206	22,455	18,401	16,664	5,428	3,632	1,915	537	69,032
11211	28,441	25,606	18,900	4,679	3,876	2,766	821	85,089
11216	15,696	14,321	15,741	4,519	3,038	1,794	666	55,775
11221	25,200	19,790	19,546	5,578	3,688	1,944	617	76,363
Totals	101,412	90,096	79,587	22,712	15,870	9,297	2,907	321,881

Data from the Community Health Profiles of the New York City Department of Health and Mental Hygiene supports the results of the PQI data. The following statistics for Bushwick/Williamsburg, and Central Brooklyn demonstrate the health status of the PSA residents:

- The percentages of residents living at or below the Federal Poverty Level in Bushwick/Williamsburg and Central Brooklyn (38% and 31%, respectively) are higher than in Brooklyn overall (25 percent) and New York City overall (21 percent).

- The overall mortality rates for residents of Bushwick/Williamsburg and Central Brooklyn (877/100,000 and 933/100,000, respectively) are higher than in Brooklyn overall (754/100,000) and New York City overall (718/100,000).
- Of the 42 New York City neighborhoods, the communities of Bushwick/Williamsburg and Central Brooklyn respectively have the 38th and 37th highest rates of avoidable hospitalizations.
- Nearly one-third of the residents of Bushwick/Williamsburg and Central Brooklyn (32 percent and 29 percent respectively) do not have a regular primary care provider or healthcare provider. This lack of access to care causes local residents to experience high preventable hospitalization rates and high disease mortality rates.
- Approximately 14 percent and 13 percent of the residents of Bushwick/Williamsburg and Central Brooklyn, respectively, go to a local Emergency Department (ED) for their regular healthcare, as compared to only 8 percent of the residents of Brooklyn overall and New York City overall. This inappropriate use of the ED demonstrates the need for additional primary care resources in the community.
- Approximately 27 percent and 21 percent of the residents of Bushwick/Williamsburg and Central Brooklyn, respectively, are uninsured, as compared to 18 percent from Brooklyn overall and New York City overall. Individuals who are uninsured often have difficulty accessing healthcare services. The proposed Center will take all patients in need of care, regardless of payer source.

<u>Zip Code</u>	<u>Total Medicaid</u>	<u>HMO Enrollment</u>	<u>MA Fee for Service</u>	<u>Annual Primary Care Visits</u>	<u>Primary Care Use Per Eligible Year</u>
11205	13,037	83,38	4,699	37,952	8.08
11206	38,312	24,949	13,363	86,922	6.50
11211	42,563	31,895	10,668	88,672	8.31
11216	21,532	13,191	8,341	48,198	5.78
11221	36,380	22,429	13,951	89,032	6.38
Total	151,822	100,802	51,020	350,776	6.88
Statewide	3,878,955	2,096,705	1,782,250	10,279,812	5.77

SOURCE: OMM data for fee primary care service visits dated from Sep 2003 to Feb 2004.

For this service area there are a total 151,822 Medicaid recipients. Of these, 100,802 are enrolled in a Medicaid Managed Care Plan. This area has a primary care use rate of 6.88 visits per Medicaid recipient. This compares to the statewide use rate of 5.77.

Existing Services

Diagnostic & Treatment Center	6
D&TC Extension Clinic	6
D&TC School Board Extension Clinic	6
Hospital Extension Clinic	4
Hospital School Board Extension Clinic	3
Total	25

<u>Facility</u>	<u>Patients</u>	<u>Primary Care Visits</u>	<u>Dental Visits</u>	<u>Other</u>	<u>Total</u>
LaProvidencia Family Health Ctr.	9,039	31,935	5,378	0	37,313
Bedford Stuy Family Care Ctr.	16,797	48,529	7,585	480	56,594
ODA Community Health Ctr.	17,679	53,894	11,169	4,744	69,807
Bedford Medical Family Health Ctr.	4,547	17,925	0	2,601	20,526
Cumberland Neighbor Family Care Ctr.	25,717	49,026	6,475	55,226	110,727
Medcare LLC	3,651	16,187	1,195	3,350	20,732
Total	77,430	217,496	31,802	66,401	315,699

SOURCE: NYS Cost Reports, 2008

In this service area there are 54 primary care physicians in private practice.

Conclusion

The severely high PQI's for the proposed service area, especially those for the chronic conditions of congestive health failure, hypertension, diabetes and asthma, indicate the need for expanded access to primary care in that part of Brooklyn. The earlier designation by HRSA of the facility's primary service area's 107 census tracts as a High Professional Shortage Area only strengthens their assessment.

Recommendation

From a need perspective, contingent is recommended.

Programmatic Analysis

Background

Services to be provided include: primary medical care, medical social work, nutrition, ophthalmology, optometry, pediatric, physical medicine and rehabilitation, podiatry, prenatal, psychology, diagnostic radiology, occupational therapy, physical therapy, speech language pathology and well child care. The Center will be in operation six days per week. Staff, under the supervision of the medical director, Jeffrey Ben-Zvi, will initially consist of 18.42 FTEs and is projected to expand to 19.32 FTEs by the end of the third year. Included will be 5.75 FTEs physicians, 0.05 FTEs technicians, 0.78 FTEs therapists, 1.76 FTE social workers, and 1.44 FTE nurses.

A transfer and affiliation agreement for emergency, inpatient and back-up support services has been signed with New York Downtown Hospital, which is fifteen minutes and 3.6 miles from the Center. An answering machine, with access to center staff, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The applicant has attested to compliance with the following: the governing body and medical staff will develop, maintain, and periodically review a list of policies and procedures that will ensure that services performed at the facility will conform to generally accepted standards of practice. The Center's admissions policy will include anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, and source of payment. All services will be performed in compliance with all applicable federal and state rules, including standards for credentialing, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

Characteristics of the governing body reflect responsiveness to community need in the use of a patient satisfaction measurement tool that will provide continuous, ongoing feedback to the organization for the quality improvement program and planning discussions.

Character and Competence

The Board of Directors and offices held are as follows:

<u>Name</u>	<u>Office Held</u>
Sara Stern	President
Amy Monroe	Secretary
Chaye Miller	Treasurer

Staff from the Division of Certification & Surveillance reviewed the disclosure information submitted by the entire Board of Directors 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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which 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

Total Project Cost and Financing

The total project cost for legal and consulting fees is \$22,265 broken down as follows:

Other Fees	\$20,000
Financing Costs	512
Applicant Fee	2,000
Processing Fee	<u>113</u>
Total Project Cost	\$22,625

Total project cost will be financed via cash of \$2,263 and a loan of \$20,362 at a rate of 8% for seven years.

Lease Rental Agreement

The applicant has submitted a draft lease rental agreement for the site to be occupied, the terms of which are summarized below:

- Premises:* 5,000 square feet located at 445 Park Avenue, New York, Kings County
- Lessor:* 445 Park Ave., LLC
- Lessee:* ParCare Community Health Network, Inc.
- Rental:* \$225,000 annually (\$45.00 per sq. ft.) There is no annual increase in rent stated in the draft lease over the twenty year term.
- Term:* 20 year term
- Provisions:* Utilities are not included in the base rent. Maintenance service, taxes, security services and, hot and cold water, are included in the base rent.

The applicant has provided two letters indicating the rent reasonableness. The applicant has submitted an affidavit indicating that the lease agreement will be an arms length lease agreement.

Operating Budget

The applicant has submitted an operating budget in 2010 dollars, for the first and third years of operation after the change in ownership, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$2,496,796	\$2,649,793
Expenses:		
Operating	\$2,257,190	\$2,378,214
Capital	<u>239,496</u>	<u>241,460</u>
Total Expenses	\$2,496,686	\$2,619,674
 Excess Revenues over Expenses:	 \$110	 \$30,119

Utilization: Visits	34,109	35,836
Cost Per Visit:	\$73.20	\$73.10

Utilization by payor source for the first and third year:

Medicaid Fee-for-Service	11%
Medicaid Managed Care	59%
Medicare Fee-for-Service	11%
Medicare Managed Care	1%
Commercial Fee-for-Service	9%
Private Pay	5%
Charity	2%
Other	2%

Expense and utilization assumptions are based on the historical experience of Parkville Medical, P.C. Also, the current Medical Director of Parkville Medical, P.C., Jeffrey Ben-Zvi, MD., will stay on as the Medical Director of ParCare Community Health Network, Inc.

Capability and Feasibility

The project costs of \$22,625 will be met through a cash equity contribution of \$2,263 and a loan of \$20,362 payable over 7 years at a rate of 8%. Presented as BFA Attachment A, is the personal net worth statement for Max Lebowitz who will contribute the equity as indicated from his net worth statement. Also, the applicant will finance the remainder via a loan for which a letter of interest has been provided at the stated terms.

Working capital requirements, estimated at \$436,613, appear reasonable based on two months' of third year expense. The proposed working capital requirement will be met through a loan from East Coast Venture Capital for \$189,324 at a rate of 6% for a term of two years. The balance of \$247,289 will be paid with equity via Max Lebowitz. Presented as Attachment A, is the net worth statement of Max Lebowitz, indicating sufficient working capital equity. Presented as BFA Attachment B, is the pro forma balance sheet of ParCare Community Health Network, Inc., which indicates a positive equity position of \$1,449,551 as of the first day of operation.

Presented as BFA Attachment D, is the detailed budget indicating an excess of revenues over expenses of \$110 and \$30,119 during the first year and third year of operation, respectively. Revenues are based on current reimbursement methodologies.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

The facility occupies the entire ground floor of an existing two story building. The design situates the main waiting area towards the "front" and the larger therapy rooms towards the "back" with support, exam, and single patient therapy spaces in between.

The facility is approximately 5,000 square feet in size, and includes a lobby, waiting room, main reception desk, two patient toilets that are handicapped-accessible, two administrative offices, soiled holding room, clean supply room, equipment storage room, 10 medical exam rooms, two multi-patient therapy rooms, a lab/medication room, staff break room, one exam center room, one pantry, two staff toilets, a housekeeping closet, clean linen room, telephone closet, and utility closet.

Environmental Review

The Department has deemed this project to be an UNLISTED ACTION and has determined that for its purposes an Environmental Impact Statement (EIS) is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

- | | |
|------------------|---|
| BFA Attachment A | Personal Net Worth Statement- Max Lebowitz |
| BFA Attachment B | Pro Forma Balance Sheet- ParCare Community Health Network, Inc. |
| BFA Attachment C | Establishment Checklist for Ambulatory Care Sites |
| BFA Attachment D | Summary of Detailed Budget |
| BHFP Attachment | Map |



Public Health and Health Planning Council

Project # 102256-E South Brooklyn Medical Administrative Services, Inc.

County: Kings (Brooklyn)
Purpose: Establishment

Program: Diagnostic and Treatment Center
Submitted: October 5, 2005

Executive Summary

Description

South Brooklyn Medical Administrative Services, Inc., an existing proprietary corporation and Article 28 diagnostic and treatment center (D&TC) located at 685 Third Ave, Brooklyn, seeks approval for permanent life of its Methadone Maintenance Treatment Program (MMTP). The original application, CON #031044-B, was approved by the Public Health Council on April 29, 2005, to provide methadone maintenance treatment program (MMTP) services with a five-year limited life.

The applicant has no outstanding audit liabilities, is in compliance with current cost reporting requirements and has not experienced any changes in ownership since inception. Ownership is as follows:

Arthur Zaks, M.D.	75%
Mary Zaks	25%

The facility continues to operate under the original lease expiring January 31, 2015. The applicant has provided an executed extension to the lease stating there will be two additional five-year options for renewal.

DOH Recommendation
Contingent approval.

Need Summary

The facility treated 694 individuals in Kings County in 2009. The facility is currently licensed to offer primary care services, but has determined that the primary care portion of the application should not be considered for permanent certification because of low utilization. This facility will continue to operate permanently as a MMTP facility.

Program Summary

Upon approval for permanent life, the D&TC will continue to offer MMTP utilizing 26 staff, but will discontinue primary care services.

The applicant will enter into a transfer and affiliation agreement for emergency and back-up services with Lutheran Medical Center, which is 1.5 miles or 10 minutes in travel time from the Center.

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

Financial Summary

There are no project costs associated with this application.

2009 Operations:	<i>Revenues:</i>	\$ 3,315,116
	<i>Expenses:</i>	<u>2,292,744</u>
	<i>Gain/(Loss):</i>	\$ 1,022,372

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural review is required.

Recommendations

Health Systems Agency

There will be no HSA review of this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed with the consultation of legal counsel, in light of anti-kickback and self-referral laws, and it is concluded that proceeding with the proposal is acceptable. [RNR].
2. Submission of an Amended and Restated Certificate of Incorporation that is acceptable to the Department. [CSL]
3. Submission of Bylaws that are acceptable to the Department. [CSL]
4. Submission of stock certificates that are acceptable to the Department. [CSL]
5. Submission of original stockholder affidavits that are acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

South Brooklyn Medical Administrative Services, Inc. is licensed by The NYS Office of Alcoholism and Substance Abuse Services (OASAS) for 1,000 Methadone Maintenance Treatment Program (MMTP) slots and 50 Key Extended Entry Program (KEEP) slots. KEEP provides services to individuals incarcerated in the New York City Corrections System. These services will continue in the diagnostic and treatment center.

The facilities regular MMTP and KEEP services will continue under its permanent certification.

Target Population and Service Area

General Population of Service Area by Zip and Age Range								
<u>Zip Code</u>	<u>0 to 17</u>	<u>18 to 34</u>	<u>35 to 54</u>	<u>55 to 64</u>	<u>65 to 74</u>	<u>75 to 84</u>	<u>84 plus</u>	<u>Total</u>
11209	12,830	18,198	21,101	6,418	5,568	4,061	1,664	69,840
11215	12,091	21,108	20,128	4,422	2,779	1,827	646	63,001
11217	6,427	12,183	11,158	2,754	1,592	834	405	35,353
11220	24,873	27,231	25,399	6,784	4,791	2,677	963	92,718
11224	12,748	9,848	12,926	5,297	4,878	3,825	1,683	51,205
11231	7,030	10,396	9,762	2,405	1,753	1,252	376	32,974
11232	7,297	9,340	7,385	1,788	1,099	612	202	27,723
11235	<u>13,741</u>	<u>16,147</u>	<u>22,493</u>	<u>8,153</u>	<u>7,704</u>	<u>6,436</u>	<u>2,777</u>	<u>77,451</u>
<i>Totals</i>	<i>97,037</i>	<i>124,451</i>	<i>130,352</i>	<i>38,021</i>	<i>30,164</i>	<i>21,524</i>	<i>8,716</i>	<i>450,265</i>

Clinics and Outpatient Facilities

There are 4 D&TCs, 22 extension clinics, 16 school based clinics, 5 specialty clinics and 4 specialty extension clinics in the service area.

There are 3 hospitals within the service area, Coney Island Hospital, Lutheran Medical Center and New York Methodist Hospital.

Analysis and Conclusion

This application will allow South Brooklyn Medical Administrative Services to continue to permanently operate its MMTP. The clinic model is preferred to an office-based program by OASAS. The facility will be owned and operated by the physician who has provided MMTP services through his office practice for more than 30 years.

The applicant plans to focus on the needs of its methadone population.

The Bureau of Health Facility Planning finds that there is a need for this facility, to continue the provision of services to the 950 current MMTP patients.

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Background

Emergency, in-patient and back-up support services is provided by Lutheran Medical Center which is 1.5 miles and 10 minutes in travel time from the Center.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. The governing body intends on using a patient satisfaction measurement tool, and discussions with their patients, to reflect responsiveness to community need, as well as provide continuous, ongoing feedback to the organization for the total quality management improvement program.

Character and Competence

<u>Name</u>	<u>Position</u>
Armando Aquino Vazquez, M.D.	Medical Director
Arthur Zaks, M.D.	Shareholder
Mark Zaks	Shareholder

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which would reflect adversely upon the applicants' character and competence or standing in the community.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the current year and years one and three of operation subsequent to receiving a permanent life, which is summarized below:

	<u>Current Year, Years One and Three</u>
Revenues:	\$3,315,116
Expenses:	
Operating	\$2,113,210
Capital	<u>179,534</u>
Total Expenses:	\$2,292,744

Net Income:	\$1,022,372
Utilization (visits)	136,509
Cost per Visit	\$16.80

Utilization by payor source for the current year and year's one and three are as follows:

	<u>Current Year, Years One and Three</u>
Medicaid Fee for Service	88%
Private Pay	12%

Expense and utilization is based on the historical experience of South Brooklyn Medical Administrative Services, Inc. in providing the existing services.

Capability and Feasibility

There are no project costs associated with this application.

Presented as BFA Attachment A are the 2006 through 2009 financial summaries of South Brooklyn Medical Administrative Services, Inc. Presented as BFA Attachment B is the draft financial summary as of October 30, 2010, of South Brooklyn Medical Administrative Services, Inc.

The facility maintained positive working capital and stockholder's equity and net income has been \$1,114,991, \$893,520, \$813,231 and \$715,551 for the years 2006, 2007, 2008 and 2009, respectively. As of October 31, 2010, the applicant has maintained a net income of \$425,738.

It appears that the applicant has demonstrated the capability to proceed in a financial feasible manner, and approval of permanent life is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	2006 – 2009 Financial Summary, South Brooklyn Medical Administrative Services, Inc.
BFA Attachment B	Draft Financial Summary as of October 31, 2010, South Brooklyn Medical Administrative Services, Inc.



Public Health and Health Planning Council

Project # 102363-E
HeartShare Wellness, Ltd.

County: Kings (Brooklyn)
Purpose: Establishment

Program: Diagnostic and Treatment Center
Submitted: November 12, 2010

Executive Summary

Description

HeartShare Wellness, LTD. (HSW), a not-for-profit, Article 28 free-standing diagnostic and treatment facility had been initially approved through CON #991159-B at the October 2000 Public Health Council, with a permanent life at the facility site located at 50 Court Street, Brooklyn. In 2006, the facility submitted another CON (#062430-C) for the relocation of the facility from the originally approved site to 177 Livingston Street, Brooklyn, and the addition of three services – occupational therapy, physical therapy and speech pathology. The relocation and addition of services was approved administratively on January 25, 2008, and the facility was issued a two-year limited life approval at that time. The facility now requests approval for permanent life through the submission of this CON application.

This facility has been established in order to provide primary care services to individuals with developmental disabilities and their families, in the borough of Brooklyn.

HeartShare Human Services of New York, Roman Catholic Diocese of Brooklyn, is the sponsor and sole corporate member of HSW. HeartShare Human Services, founded in 1914, is a voluntary agency which provides a full range of children and family services including: foster care and adoptive services, community-based family centers, and school based recreational and social programs to community members and families. HeartShare also provides residential housing and community services for persons with HIV/AIDS, and a variety of services for persons of all ages with developmental disabilities including: neighborhood-based group homes, pre-school centers, adult day treatment programs and day habilitation programs.

DOH Recommendation Approval

Need Summary

HeartShare Human Services is seeking to expand its current continuum of care by developing this D&TC. They will not be adding or increasing D&TC Services.

Program Summary

The center serves mainly patients diagnosed with intellectual and developmental disabilities. No changes will occur based on the approval of this project.

Emergency, in-patient and back-up support services are provided by Long Island College Hospital, which is one mile or 3 minutes in travel time from the center.

Financial Summary

The applicant has no outstanding audit liabilities and is in compliance with current cost and HCRA reporting requirements. The applicant has experienced no significant changes in ownership or the lease agreement. There are no project costs.

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval.

Council Action Date

June 16, 2011.

Need Analysis

Background

HeartShare Wellness was initially approved with a two-year limited life status, to allow the Department to review whether this facility should be licensed as an Article 28 or Article 16 facility. At the end of fiscal year 2009, the facility reported it had served 1,576 users, of which 1,451 were Article 28 users and 28 were Article 16 users.

Analysis

According to the Institutional Cost Report Data, HeartShare Wellness provided 15,008 Article 28 visits in 2009. The predominance of Article 28 visits in these numbers indicates that this DTC is appropriately certified as an Article 28 facility.

There are currently 44 DTC's in Kings County.

The Medicaid eligible person should have a minimum of 2.0 primary care visits per year. The patients at this facility average approximately 3.5 visits at a minimum, due to the special needs of its mentally challenged patients.

<u>Projected Visits</u>	<u>Current</u>	<u>1st Year</u>	<u>3rd Year</u>
Primary Medical Care	7,063	7,144	7,750
Pediatrics	96	110	150
Podiatry	1,728	1,750	1,850
Psychology	4,837	3,700	3,750
Therapy-Physical	203	96	200
Therapy-Speech	931	0	0
Optometry	597	700	700
Medical Social Work	50	0	0

As seen in the table above, the majority of the facility's visits are for Primary Medical Care, 7,063, and Psychology, 4,837 visits.

The services currently being offered at HeartShare Wellness are as follows:

Clinic Part Time Service	Pediatric
Therapy (Occupational)	Medical Social Services
Physical Medicine and Rehabilitation	Therapy (Physical)
Nursing	Podiatry
Therapy (Speech)	Nutritional
Primary Medical Care	Well-Child Care
Optometry	Psychology

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

HeartShare Wellness, a not-for-profit corporation, requests approval for a permanent operating certificate for the operation of their diagnostic and treatment center located in leased space at 177 Livingston Street, Brooklyn.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

Character and Competence

Heartshare Wellness has one member, Heart Share Human Services of New York, Roman Catholic Diocese of Brooklyn. The Board of Directors of Heartshare Wellness is as follows:

<u>Name</u>	<u>Office Held</u>
Dr. Joseph Caruana	Chairman
Mr. Richard DiNapoli	Treasurer
Dr. Robert Calciano	Member
Dr. Michael Abott	Member
Mr. Carl Campagna	Member
Mr. Mark Fappiano	Member

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which 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

Facility Site and Lease Agreement

The facility will be occupied under the terms of the lease/rental agreements summarized below:

<i>Landlord:</i>	Treeline West, LLC
<i>Sublessor:</i>	HeartShare Human Services of New York, Roman Catholic Diocese of Brooklyn
<i>Sublessee:</i>	HeartShare Wellness, LTD.
<i>Term:</i>	Through 12/31/2017
<i>Rental:</i>	\$224,752 year 1, \$231,495 year 2, \$238,439 year 3, \$245,593 year 4, \$252,960 year 5, \$260,549 year 6, \$268,366 year 7, 276,417 year 8, \$284,709 year 9, \$293,250 year 10 and \$300,048 year 11.
<i>Type:</i>	Triple net

The applicant has submitted an affidavit indicating that the lease arrangement will be an arm's length lease arrangement, since there is no relationship between the landlord and the tenant.

Operating Budget

The Statement of Operations, actual vs. projected, for year one and year three are as follows:

	<u>Current Year</u>	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$2,909,114	\$2,590,778	\$2,769,388
Expenses:			
Operating:	\$2,211,623	\$1,767,492	\$2,053,241
Capital:	<u>392,106</u>	<u>248,072</u>	<u>258,099</u>
Total Expenses:	\$2,603,729	\$2,015,564	\$2,311,340
Excess (Deficiency) of Revenue over Expenses:	<u>305,385</u>	<u>\$575,214</u>	<u>\$458,048</u>
Visits:	15,507	13,500	14,500
Cost Per visit:	\$167.91	\$149.30	\$159.40

Utilization by payor source, for the current year and first and third years of operations are as follows:

	<u>Current Year</u>	<u>Years One and Three</u>
Medicaid Fee-for-Service	54.51%	54.00%
Medicare Fee-for-Service	41.67%	42.00%
Commercial Fee-for-Service	3.82%	4.00%

Presented as BFA Attachment A is the certified 2008, 2009, and 2010 financial statements of Heartshare Wellness, LTD.

Capability and Feasibility

There are no issues of capability. The issue of feasibility is centered on the applicant's ability to offset expenses with revenues. The submitted budget indicates a net income of \$575,214 in year 1, and \$458,048 in year 3. Revenues are based on current reimbursement methodologies for diagnostic and treatment services.

As noted in BFA Attachment A, 2008-2010 certified financial statements for Heartshare Wellness, LTD, the facility maintained both a negative average annual net asset position and working capital position, and generated average positive excess revenues of \$249,304. The reason for negative net assets and working capital position for 2008-2010 is because of the losses the facility incurred during the initial years of operations. In those years, the facility did not have the number of patients needed to cover the variable and fixed operating costs of the clinic in order to run at a surplus. Up until 2007, the facility had not had an annual positive fund balance. In order to rectify this, the facility has worked to increase the number of individuals coming into the clinic, which has given them a positive fund balance for that year, but not in total. This has therefore, allowed the facility to reduce their net deficiency from \$1,349,420 in June 2006 to \$213,883 in June 2010. It appears that based on the current operating levels, the facility should hit a positive net asset position by June 2012.

As the applicant appears to have stabilized operations from a financial perspective, approval is recommended for permanent life.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A Certified 2008, 2009 and 2010 Financial Statement of Heartshare Wellness, LTD

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Dialysis Services - Establish/Construct

Exhibit #12

<u>Number</u>	<u>Applicant/Facility</u>
1. 091040 B	Palm Gardens Dialysis Center, LLC (Kings County)
2. 092072 B	Mohawk Valley Dialysis Center, Inc. (Montgomery County)
3. 092169 B	Ditmas Park Dialysis Center, LLC (Kings County)



Public Health and Health Planning Council

Project # 091040-B
Palm Gardens Dialysis Center, LLC

County: Kings (Brooklyn)

Program: Dialysis Services

Purpose: Establishment and Construction

Submitted: February 19, 2009

Executive Summary

Description

Palm Gardens Dialysis Center (Palm Gardens Dialysis), a newly-formed limited liability company, requests approval to establish and construct a diagnostic and treatment center (D&TC) to provide a 12-station chronic renal dialysis service for the residents of Kings County. The applicant will lease space at The Palm Gardens Center for Nursing and Rehabilitation (Palm Gardens Center), an existing residential health care facility located at 615 Avenue C, Brooklyn. The facility will be open primarily to residents of Palm Gardens Center, whereby many of the patients who have ventilator needs receive dialysis. However, Palm Gardens Dialysis will also provide service to the general public.

The sole member of Palm Gardens Dialysis Center, LLC, is Mr. Shimon Lefkowitz.

Total project costs are estimated at \$3,021,182.

DOH Recommendation
Contingent approval.

Need Summary

In Kings County, in 2013, there will be a need for additional stations based upon the Department's projection of a 2% increase in the projected growth in residents/patients using dialysis.

With the approval of this CON, there will be 680 approved stations in Kings County. Based upon the Department's 2% growth projection in residents/patients using dialysis, there will be a need for 883 free standing stations to treat the projected number of patients treated in Kings County facilities by 2014.

Program Summary

Palm Gardens Dialysis will enter into a transfer and affiliation agreement for emergency and back-up services with Maimonides Medical Center (which is 2 miles or 6 minutes in travel time from the Center) and New York Methodist Hospital (which is 2.4 miles and 8 minutes travel from the Center).

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

Financial Summary

Total project costs will be met via membership equity of \$353,034 and a loan of \$2,668,148 (10 yrs. @ 8.25%). Project costs are for moveable equipment and renovation of the facility.

Budget:	<i>Revenues:</i>	\$ 2,326,904
	<i>Expenses:</i>	<u>2,126,808</u>
	<i>Gain/(Loss):</i>	\$ 200,096

Architectural Summary

The applicant is seeking approval to establish and construct a 12-station chronic renal dialysis center at Palm Gardens Center for Nursing and Rehabilitation. The dialysis center will be located on the ground floor of this existing nursing home.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed with the consultation of legal counsel, in light of anti-kickback and self-referral laws, and it is concluded that proceeding with the proposal is acceptable. [RNR]
3. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
4. Submission of an executed building lease acceptable to the Department. [BFA]
5. Submission of a final financing package acceptable to the Department. [BFA]

Approval conditional upon:

1. The applicant shall complete construction by December 31, 2013. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]
2. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
3. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's request for, and Department's granting approval for the start of construction. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

Palm Gardens Center for Nursing and Rehabilitation is a 220 bed RHCf in Kings County. This residence is licensed for 20 ventilator beds and Adult Day Home Care services. Per Department data, this facility has averaged 92.8 percent occupancy 2005-2007. The applicant reported that, in February 2009, there were eight residents who were being treated with chronic renal dialysis.

There are four dialysis facilities physically located in RHCf's in Kings County. Of these four facilities, two facilities with a total of 25 (20 and five) free standing stations, opened in 2004. These two facilities exceeded 110 percent utilization for 2006-2008. The Department cannot differentiate patients who were residents of these RHCf's and other patients when calculating utilization. Two additional facilities in RHCf's, with 16 free standing stations (12 and four) are not yet open.

Analysis

- Service Area
The service area for this application is Kings County. The U. S. Census Bureau estimated that, in 2008, Kings County had a population of 2,556,598.
- Race and Ethnology
63.5 percent of the County is minority. Minorities are at a greater risk for Diabetes Type II, which is one of the leading causes for chronic kidney disease. 963,837 residents are African American, 498,537 are Hispanic Americans and 232,650 are Asian Americans.
- Age
Kings County is a relatively young County with 12.2 percent of its population 65 years or more. However, that 12.2 percent is 311,905 persons. The elderly are the fastest growing group in need of dialysis treatment.
- Availability of Chronic Renal Dialysis Treatment
There are 27 approved facilities in Kings County with stations as follows:

	<u>Free Standing</u>	<u>Hospital Based</u>
Approved and Operational	545	44
Approved, Not Yet Operational	77	2
<i>Sub Total</i>	622	46
<i>Total Approved Stations</i>	668	

- Patients Treated in Service Area Facilities

<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
3,228	3,264	3,296	3,384	3,529

- Service Area Residents Receiving Treatment
Based upon data from IPRO ESRD Network of NY, as of March 5, 2009, there were 4,131 residents of Kings County receiving dialysis treatment.
- Projected Need
Based upon a 2% increase in projected growth in residents/patients using dialysis, in 2014 there will be a need for no fewer than 215 additional freestanding stations over the 668 currently authorized for the borough.

	2008		2014	
	<i>Total Patients Treated</i>	<i>Total Residents Treated</i>	<i>Projected Patients Treated</i>	<i>Projected Residents Treated</i>
		3,529	4,131	3,974
# Free Standing Stations Needed	784	918	883	1,034
# Existing Stations	668	668	668	668
# Unmet Need	116	250	215	366

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Background

Services to be provided include staff-assisted hemodialysis utilizing high-flux equipment and home dialysis training to residents of and persons in the company who require chronic renal dialysis services. The facility will initially operate at least three days a week with additional hours as required. Staff, under the supervision of the medical co-directors Leon Shein and Devendra Shrivastava, will initially consist of 12.5 FTEs and is projected to expand to 17.25 FTEs by the end of the third year.

The housing of the proposed dialysis unit within the 240 bed residential health care facility will not result in a reduction of space for the current nursing home services, as the location of the chronic renal dialysis facility will be a separate outside entrance for direct access to the Center.

Emergency, in-patient and back-up support services are expected to be provided by Maimonides Medical Center which is two miles and six minutes in travel time from the Center, and by New York Methodist Hospital, which is 2.4 miles and 8 minutes travel time from the Center. An answering service, with access to center staff, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The applicant has attested to compliance with the following: the governing body and medical staff will develop, maintain, and periodically review a list of policies and procedures that will ensure that services performed at the facility will conform to generally accepted standards of practice. The Center's admissions policy will include anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, and source of payment. All services will be performed in compliance with all applicable federal and state rules, including standards for credentialing, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services.

Character and Competence

The sole managing member will be Shimon Lefkowitz. Mr. Lefkowitz has owned and operated an adult home, a licensed home care agency, and two nursing homes for over 10 years.

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing which would reflect adversely upon the applicant's character and competence or standing in the community.

Recommendation

From a programmatic perspective, contingent approval is recommended.

<h2>Financial Analysis</h2>

Lease Rental Agreement

The applicant has submitted a draft lease rental agreement for the site to be occupied. The terms of which are summarized below:

<i>Premises:</i>	3,626 sq. ft. located at 615 Avenue C, Brooklyn, New York
<i>Lessor:</i>	The Palm Gardens Center for Nursing and Rehabilitation
<i>Lessee:</i>	Palm Gardens Dialysis Center
<i>Term:</i>	25 years
<i>Rental:</i>	\$90,650 annually (\$25.00 per sq. ft.)
<i>Provisions:</i>	The lessor shall be responsible for real property taxes and utilities.

The applicant has indicated via an affidavit that the lease arrangement will be a non-arms length lease arrangement. Real estate letters attesting to the reasonableness of the per square foot rental have been submitted.

Total Project Cost and Financing

Total project cost, which includes renovation and movable equipment estimated at \$3,021,182, is itemized as follows:

Renovation & Demolition	\$1,423,887
Site Development	47,700
Design Contingency	142,389
Construction Contingency	142,389
Fixed Equipment	371,000
Planning Consultant Fee	14,716
Architect/Engineering Fees	198,975
Other Fees	137,800
Moveable Equipment	329,241
Telecommunications	50,236
Financing Costs	53,363
Interim Interest Expense	91,718
Application Fee	1,250
Processing Fee	<u>16,518</u>
Total Project Costs	\$3,021,182

The applicant's financing plan appears as follows:

Equity	\$ 353,034
Loan (8.25% @ 10 year term)	\$2,668,148

Operating Budget

The applicant has submitted an operating budget for the first and third years of operation. The budget, summarized below, reflects first and third year revenues and first year expenses in 2011 dollars. Year three expenses have been trended as a measure of conservatism in view of the relatively constant Medicare rate.

	<u>Year One</u>	<u>Year Three</u>
Revenues	\$1,879,422	\$2,326,904
Expenses:		
Operating	\$1,264,598	\$1,657,675
Capital	<u>500,403</u>	<u>469,133</u>
Total Expenses	\$1,765,001	\$2,126,808
 Net Income:	 \$114,421	 \$200,096
Utilization: (Treatments)	6,048	7,488
Cost Per Treatment	\$291.83	\$284.03

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

Medicaid Fee-for-Service	2.00%
Medicare Fee-for-Service	65.00%
Commercial Fee-for Service	33.00%

Expense and utilization assumptions are based on the historical experience of other dialysis facilities in the geographical area. Also, upon approval, New York Methodist Hospital has submitted a letter of interest to ascertain an affiliation agreement between Palm Gardens Dialysis Center and the Hospital to provide backup support services.

Capability and Feasibility

The project costs of \$3,021,182 will be met through cash equity contribution of \$353,034 and a loan of \$2,668,148 for 10 years at a rate of 8.25%. Presented as BFA Attachment A, is the personal net worth statement for Shimon Lefkowitz, which indicates sufficient resources for equity contribution. The applicant has submitted a letter of interest from Bank of America at the stated terms.

Working capital requirements are estimated at \$354,468, which appears reasonable based on two months of third year expenses. Shimon Lefkowitz, the sole member of Palm Gardens Dialysis Center, LLC, will provide equity from his personal net worth statement as presented in BFA Attachment A indicating sufficient working capital equity. Presented as BFA Attachment B, is the pro-forma balance sheet of Palm Garden Dialysis Center, LLC, as of the first day of operation, which indicates a positive member's equity position of \$707,502 as of the first day of operation.

The submitted budget indicates a net income of \$114,421 and \$200,096 during the first and third years, respectively. Revenues reflect current reimbursement methodologies for dialysis services.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

Approximately 3,626 SF of existing space on the first floor of the RHCF will be renovated to accommodate the proposed dialysis center. The space had been a dining room for the facility's old health related facility (HRF), and is currently unused space.

The dialysis center will comprise the following: reception area, twelve dialysis stations, staff station, clean utility room, soiled utility room, office, examination room, store room, janitor's closet, staff toilet, staff lounge, 2 patient toilets, staff lounge, water treatment room and equipment repair room.

Environmental Review:

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement
BFA Attachment B	Pro-Forma Balance Sheet
BFA Attachment C	Detailed Budget, Palm Dialysis Center, LLC
BFA Attachment D	Establishment Checklist



Public Health and Health Planning Council

Project # 092072-B
Mohawk Valley Dialysis Center, Inc.

County: Montgomery (Amsterdam)
Purpose: Establishment and Construction

Program: Dialysis Services
Submitted: September 11, 2009

Executive Summary

Description

Mohawk Valley Dialysis Center, Inc. (MVDC) a to-be-formed New York business corporation, requests approval to establish and construct a 13-station end-stage renal dialysis diagnostic and treatment center (D&TC), to be located in leased space at 115 Amsterdam Town Square, Route 30, Amsterdam.

MVDC's shareholders include Amsterdam Nephrology Holdings, LLC, (ANH) a New York limited liability company, and American Renal Associates, LLC, (ARA) a Delaware limited liability company, as shown here:

<u>Owner</u>	<u>Shares</u>	<u>Pct.</u>
American Renal Associates, LLC	51	51%
-- American Renal Holdings, Inc. (100%)		
Amsterdam Nephrology Holdings, LLC	49	49%
-- Soo Gil Lee, M.D. (50%)		
-- Alexander L. Zimmerman, M.D. (50%)		

ANH is owned by 2 nephrologists who practice locally in Montgomery County. ARA is entirely owned by American Renal Holdings, Inc., and through this structure, as of September 30, 2010, ARA owned and operated 88 dialysis clinics, treating more than 6,100 patients in 17 states and the District of Columbia. ARA operates these dialysis clinics under a joint venture model, where they share the ownership and operational responsibilities with their local nephrologist partners. In each joint venture, American Renal Associates, LLC owns a controlling interest of 51%, and the nephrologist partners own the non-controlling interest of 49%.

Total project costs are estimated at \$1,063,230.

DOH Recommendation
Contingent approval.

Need Summary

The central location of this facility near the New York State Thruway will provide service to both Fulton and Montgomery Counties, with additional support to Schenectady and Schoharie Counties. Amsterdam in Montgomery County provides a central location for surrounding patients and the appropriate services to back up a new free standing dialysis station.

Program Summary

MVDC will enter into a transfer and affiliation agreement for emergency and back-up services with St. Mary's Hospital at Amsterdam, which is 2.7 miles or 8 minutes in travel time from the Center.

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

Financial Summary

Project costs will be met with \$106,323 in cash and a \$956,907, 5-year self-amortizing intercompany loan at 8.5% from ARA, the applicant's 51% owner.

Budget:	<i>Revenues:</i>	\$ 2,902,535
	<i>Expenses:</i>	<u>2,468,155</u>
	<i>Gain/(Loss):</i>	\$ 434,380

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

Architectural Summary

This project involves the renovation of 3,000 SF of an existing shopping center and the construction of a 3,000 SF addition, for a 6,000 SF, 15-station dialysis clinic.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed with the consultation of legal counsel, in light of anti-kickback and self-referral laws, and it is concluded that proceeding with the proposal is acceptable. [RNR, CSL]
3. Submission of a loan commitment, acceptable to the Department. [BFA]
4. Submission of a working capital loan commitment, acceptable to the Department. [BFA]
5. Submission of an executed assignment and assumption agreement for the lease, leasehold improvements, and equipment, acceptable to the Department. [BFA]
6. Submission of a photocopy of an executed facility lease and an executed ground lease, which are acceptable to the Department. [BFA, CSL]
7. Submission of an executed administrative service agreement, acceptable to the Department. [BFA, CSL]
8. Submission of a photocopy of the applicant's executed proposed certificate of incorporation, which is acceptable to the Department. [CSL]
9. Submission of a photocopy of an executed shareholder agreement, which is acceptable to the Department. [CSL]
10. Submission of a photocopy of an executed transfer and affiliation agreement, which is acceptable to the Department. [CSL]
11. Submission of a photocopy of the certificate of incorporation and any amendments thereto of American Renal Holdings, Inc., which are acceptable to the Department. [CSL]
12. Submission of an organization chart and documentation relating to the direct and indirect owners of the applicant, which are acceptable to the Department. [CSL]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER].
3. The applicant shall complete construction by June 1, 2013. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Project Description

Mohawk Valley Dialysis Center (MVDC) requests permission to establish and construct a diagnostic and treatment center with a 13-station dialysis unit. The facility would also provide both home hemodialysis and home peritoneal dialysis. The facility would be located at 115 Amsterdam Town Square, Route 30, in Amsterdam.

Public Need Criteria

The need for renal dialysis is assessed as follows:

- One freestanding station delivers 702 treatments per year (2.5 shifts per day x 6 days per week x 52 weeks x 90% = 702). One freestanding station can treat 4.5 patients per year.
- One hospital-based station delivers 499 treatments per year per station (2.0 shifts/day x 6 days/week x 52 weeks x 80% = 499). One hospital-based station can treat 3 patients per year.

Statewide, the majority of stations are freestanding as are the majority of applications for new stations. As such, when calculating the need for additional stations, the Department bases the projected need on the establishment of additional freestanding stations.

Analysis

Although MVDC would be located in Montgomery County, the facility would also serve adjacent Fulton County and portions of Schenectady and Schoharie counties. The largest portion of the facility's patients would come from Fulton County, where the elderly population, who are the highest users of renal dialysis services, is higher than the State average. An additional 20 percent of the facility's patients will come from northwestern Schenectady County and northwestern Schoharie County, with the remainder coming from Montgomery County. The combined projected need for this service area is as follows:

<i>Planning Region: Fulton, Herkimer, Montgomery, Schenectady, and Schoharie Counties</i>	<i>Projected Need</i>			
	2009		2015 (1% Increase)*	
	Total Patients Treated	Total Residents Treated	Projected Total Patients Treated	Projected Residents Treated
	290	359	340	420
Freestanding Stations Needed	64	80	76	93
Existing Freestanding Stations, Including Pipeline	61	61	61	61
Unmet Need	3	19	15	22
Freestanding Stations w/Approval of this CON	74	74	74	74
Unmet Need After Approval	-10	6	2	19

** Based upon a conservative estimate of a 1 percent annual increase and 2008 IPRO numbers*

In the above table, the number of residents treated is higher than the number of patients being treated. This indicates that approximately 69 residents leave the planning region in search of treatment. This is borne out by information from local nephrologists, who report that patients from Fulton and Montgomery County have been forced to leave the area in search of treatment, either because there are no local facilities available or there are no remaining slots or times available with other providers.

Amsterdam, in Montgomery County, is the largest municipality in the proposed service area and is a hub of commercial, medical, and transportation services. Although there is another dialysis provider in Amsterdam, the location of the proposed facility in that city will expand access to renal dialysis services and to training in home hemodialysis and home peritoneal dialysis for the residents of the proposed multi-county service area. Amsterdam is

also the home of St. Mary's Hospital, which would be available to provide acute care renal dialysis services to patients of MVDC when needed. Given that Nathan Littauer Hospital in Fulton County has indicated that it would not have the capacity to provide such back-up service, this is an additional consideration for location of MVDC in Amsterdam.

The applicant intends to develop outreach programs to make residents of the area aware of the services provided by Mohawk Valley Dialysis Center. The center will be a state of the art facility and plans to offer home dialysis training as well as peritoneal dialysis to patients.

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Services

Services to be provided include staff-assisted hemodialysis utilizing high-flux equipment, home hemodialysis training and support, home peritoneal dialysis training and support, and social work and nutritional services to persons who require chronic renal dialysis services. In addition, the supplies and solutions needed for continuous ambulatory peritoneal dialysis will be provided, as well as appropriate training and follow up.

The facility will initially operate three days a week, three shifts per day with additional hours on Saturday as required.

Staff, under the supervision of Soo G. Lee, M.D., a board-certified nephrologist serving as medical director, will initially consist of 8 FTEs and is projected to expand to 14.5 FTEs by the end of the third year. Included will be 3 FTE physicians, 1 FTE technician, a 0.5 FTE social worker, and 1 FTE nurse. The staffing is appropriate to the scope and nature of the proposed services.

Emergency, in-patient and back-up support services will be provided under terms of an affiliation agreement with St. Mary's Hospital at Amsterdam which is 2.7 miles and eight minutes in travel time from the Center. The agreement has been executed. An answering service, with access to center staff, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The applicant has attested to compliance with the following: the governing body and medical staff will develop, maintain, and periodically review a list of policies and procedures that will ensure that services performed at the facility will conform with generally accepted standards of practice. The Center's admissions policy will include anti-discrimination provisions regarding age, race, creed, color, national origin, marital status, sex, sexual orientation, religion, disability, and source of payment. All services will be performed in compliance with all applicable federal and state rules, including standards for credentialing, nursing, patient admission and discharge, a medical records system, emergency care, quality assurance and data requirements.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. The governing body intends on using a patient satisfaction measurement tool, and discussions with their patients, to reflect responsiveness to community need, as well as provide continuous, ongoing feedback to the organization for the total quality management improvement program.

Character and Competence

The applicant's stockholders are as follows:

American Renal Associates, LLC	51%
Amsterdam Nephrology Holdings, LLC	49%

The applicant's officers and directors are:

Joseph A. Carlucci – Director and President
John McDonough – Director and Treasurer

Alexander Zimmerman, M.D. – Director, Vice President and Secretary

Each of the officers and directors has over 10 years of experience in providing dialysis services either through dialysis centers or the private practice of medicine.

The sole member of American Renal Associates, LLC is American Renal Holdings, Inc., which is wholly-owned by C.P. Atlas Intermediate Holdings, LLC, which, in turn, is wholly-owned by C.P. Atlas Holdings, Inc. Centerbridge Capital Partners, LP owns 86.6% of the stock of C.P. Atlas Holdings, Inc. Centerbridge Capital Partners is a large, widely-held private equity limited partnership. Each individual investor owns less than 10% of this limited liability partnership.

Amsterdam Nephrology Holdings, LLC members are:

Soo Gil Lee, M.D.
Alexander Zimmerman, M.D.

Staff from the Division of Certification and Surveillance reviewed the disclosure information was submitted by the individuals 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 and relatives' ownership interest in other health care facilities. The licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department.

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 and information from regulatory agencies in states where American Renal operates was reviewed.

American Renal currently operates dialysis centers in: California, Colorado, District of Columbia, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and Wisconsin.

The review found that any citations were properly corrected with appropriate remedial action. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed 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

Background

The applicant has submitted a draft administrative services agreement with American Renal Management, LLC which is summarized as follows:

<i>Provider:</i>	American Renal Management, LLC
<i>Facility:</i>	Mohawk Valley Dialysis Center, Inc.
<i>Term:</i>	3 Years with an automatic renewals of 3-year terms
<i>Services Provided:</i>	Negotiate center's lease; in center's name apply and maintain licenses, permits, approvals to comply with regulations; provide for center's approval: drafts of manuals, policies and procedures; establish and supervise administrative and accounting services which includes payroll processing, benefits, billing and

collections; reimbursement procedure oversight; and payment of center's normal expenses. Develop training programs; recommend and analyze purchases, leases, equipment, and maintenance programs. Develop and maintain quality control and compliance programs including procedures for handling patient complaints; prepare for center's signature cost reports and other reports needed to obtain reimbursement; present an annual budget for the centers approval; prepare monthly and cumulative financial statements along with analysis; select and administer financial and clinical information systems; advise and assist the center in negotiating and maintaining contracts; procure insurance policies; provide oversight to ensure compliance with center's human resource policies; assist in marketing and strategic planning; develop a plan for assuring fiscal stability, quality of care. The ultimate authority for the operations, care of the patients and regulatory compliance shall remain the responsibility of the center and its governing body.

Compensation: \$110,000 per year and revised annually

There is a common ownership between the administrative services agreement provider and the applicant's 51% owner, American Renal Associates, LLC.

Space and Equipment Lease Agreement

The applicant has submitted a letter of intent to lease the proposed site. The terms of the lease are summarized below:

Premises: 6,000 square feet located at 115 Amsterdam Town Square, Route 30, Amsterdam, New York
Owner/Landlord: Amsterdam Company Limited
Lessee: Mohawk Valley Property Holdings, LLC
Sub-lessee: Mohawk Valley Dialysis Center, Inc.
Rental: \$90,750 (\$15.13 per sq.ft.) with annual increases of 3% per year
Term: Ten-year term with two additional five-year extensions
Provisions: Triple Net

The applicant has indicated that the lease will be an arm's length arrangement between the landlord, (Amsterdam Company, Ltd.), and the lessee, (Mohawk Valley Property Holdings, LLC). The sub-lease arrangement between Mohawk Valley Property Holdings, LLC (lessee) and Mohawk Valley Dialysis Center, Inc. (sub-lessee) is a non-arm's length arrangement. The lessee and sub-lessee are made up of the same owners with the identical ownership percentages (as shown below).

The proposed members of Mohawk Valley Property Holdings, LLC, the lessee, and their ownership percentages are as follows:

<u>Owner</u>	<u>Percentage</u>
American Renal Associates, LLC	51%
-- American Renal Holdings, Inc. (100% owner)	
Amsterdam Nephrology Holdings, LLC	49%
-- Soo Gil Lee, M.D. (50% owner)	
-- Alexander L. Zimmeman, M.D. (50% owner)	

It should be noted that Mohawk Valley Property Holdings, LLC, also holds the lease, leasehold improvements, and equipment through an Assign and Assumption Agreement with Mohawk Valley Dialysis Center, Inc.

Total Project Cost and Financing

Total project cost for renovations and the acquisition of moveable equipment is estimated at \$1,063,230, broken down as follows:

Renovation and Demolition	\$600,000
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Site Development	25,000
Temporary Utilities	5,000
Design Contingency	60,000
Construction Contingency	30,000
Planning Consultant Fees	25,000
Architect/Engineering Fees	36,000
Moveable Equipment	226,225
Telecommunications	48,200
CON Application Fee	2,000
CON Additional Processing Fee	<u>5,805</u>
Total Project Cost	<u>\$1,063,230</u>

Project costs are based on a May 31, 2011 construction start date and a six-month construction period.

The applicant's financing plan is as follows:

Equity contribution	\$ 106,323
Loan (8.5%, 5-year term)	956,907

A letter of interest has been provided by American Renal Associates, LLC. Note, American Renal Associates, LLC is a 51% owner of the applicant.

Operating Budget

The applicant has submitted first and third years operating budgets, in 2010 dollars, as summarized below:

	<u>Year One</u>	<u>Year Three</u>
Total Revenues*	\$1,614,870	\$2,902,535
Expenses:		
Operating	\$1,267,168	\$2,171,274
Capital	<u>322,883</u>	<u>296,881</u>
Total Expenses	\$1,590,051	\$2,468,155
Excess of Revenues over Expenses	<u>\$24,819</u>	<u>\$434,380</u>
Utilization: (treatments)	4,614	8,293
Cost Per Treatment	\$344.61	\$297.62

* Includes pharmaceuticals

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

Medicare Fee-For-Service	79.10%
Commercial Fee-For-Service	20.90%

Expense and utilization assumptions are based on the American Renal Associates, LLC historical experiences in operating similar size dialysis clinics.

The number of procedures required to breakeven in the first year is approximately 4,543 treatments, slightly below the number budgeted, but by the third year the breakeven point is expected to be at 7,052 treatments, or 85% of the budgeted volume. The applicant has submitted letters from local hospitals and the town of Amsterdam, New York in support of this project.

Capability and Feasibility

Total project cost of \$1,063,230 will be met through shareholders' equity contribution of \$106,323 with the remaining \$956,907 being provided by a 5-year self-amortizing intercompany loan from American Renal Associates, LLC; the applicant's 51% owner. Presented as BFA Attachments A through C are the shareholders net worth statements,

American Renal Holdings, Inc., and Subsidiaries 2008-2009 certified financial summary, and their September 30, 2010 financial summary, which shows adequate resources for meeting their financial obligations.

Working capital requirements are estimated at \$411,360, which appear reasonable based on two months of third year budgeted expenses. The shareholders of Mohawk Valley Dialysis Center will contribute half or \$205,680 from their resources with the balance provided through a 5-year self-amortizing intercompany loan at 8.5% from American Renal Associates, LLC. Presented as BFA Attachment D is the pro-forma balance sheet that shows operations will start off with \$322,534 in equity, slightly higher than required.

The first and third year's financial projections show a net income of \$24,819 and \$434,380, respectively. Revenues reflect current reimbursement methodologies for dialysis services.

Review of BFA Attachment B shows for the years 2008 and 2009 American Renal Holdings Inc., maintained an average positive working capital of position of \$29,932,153, and had an average net income of \$4,389,727.

American Renal Holdings states the average net asset deficit of \$63,772,810 is not the results of operating losses but rather accretion of preferred stock and its redemption in 2004-2005.

On March 22, 2010, American Renal Holdings, Inc. entered into a Contribution and Merger Agreement with C. P. Atlas Holdings, Inc. and several others for the aggregate purchase price of \$415,000,000 plus certain fees, expenses and other adjustments. The purchase price was funded by the equity investment from Centerbridge Capital Partners, L.P. and its affiliates as well as from certain members of management along with the net proceeds of a \$250,000,000 in Senior Secured Notes. The transaction was consummated on May 7, 2010 with American Renal Holdings, Inc., becoming the surviving entity, being the same entity after the merger as they were before. American Renal Holdings, Inc. is now a wholly owned subsidiary of C.P. Atlas Intermediate Holdings, LLC, which is in turn a wholly owned subsidiary of C.P. Atlas Holdings, Inc. As the result of the Merger, all of American Renal Holdings, Inc., issued and outstanding capital stock became owned by C.P. Atlas Intermediate Holdings, LLC which is their only asset. As such the consolidated financial statements of C.P. Atlas Intermediate Holdings, LLC are identical to American Renal Holdings, Inc.

Review of BFA Attachment C shows total assets went from \$173,722,000 as of December 31, 2009 to \$703,483,000 as of September 30, 2010, primarily due to an increase in Goodwill of \$479,162,000. Total liabilities increased during this period by \$140,775,000, primarily due to a new \$250,000,000 in Senior Secured Notes which are due in 2018 and bear an interest rate of 8.375%.

This new obligation was offset by other reductions in liabilities; primarily payments of \$64,261,000 on the long term debt, and the payoff of Series X mandatorily redeemable preferred stock in the amount of \$62,799,000. Total equity increase from December 31, 2009's deficit of \$59,812,000 to a positive equity position of \$329,174,000 comprised of the following: additional paid-in capital of \$188,833,000; noncontrolling interest not subject to put provisions of \$154,633,000 (this represents nephrologists partners equity); and an operating loss for the period between May 8, 2010 and September 30, 2010 of \$14,292,000. It is noted that during this period there were \$14,839,000 in merger and transaction-related costs.

It appears the applicant has demonstrated the capability to proceed in a financially feasible manner; and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

This project will consist of 3,000 SF of new construction and 3,000 SF of renovations to an existing one-story building for a 13-station freestanding dialysis center. The project will include a reception area with waiting room and business office, and a treatment area with 13 dialysis stations, nurse station and patient toilet room. It also includes an exam

room, a peritoneal training room, offices, conference room, staff lounge and toilet room, clean and soiled workrooms, an equipment repair room and storage.

Environmental Review

The Department has deemed this project to be a TYPE I Action and the lead agency shall be the county of Montgomery or the authority having jurisdiction.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A	Net Worth Statements for Proposed Physicians
BFA Attachment B	Financial Summary for 2009 and 2008, American Renal Holdings, Inc and Subsidiaries
BFA Attachment C	Financial Summary for September 30, 2010, , American Renal Holdings, Inc and Subsidiaries
BFA Attachment D	Pro Forma Balance Sheet for Mohawk Valley Dialysis Center, Inc.
BFA Attachment E	Organization Chart
BFA Attachment F	Organization Chart – Joint Venture Structure
BFA Attachment G	Establishment Checklist
BHFP Attachment	Map



Public Health and Health Planning Council

Project # 092169-B Ditmas Park Dialysis Center, LLC

County: Kings (Brooklyn)

Program: Dialysis Services

Purpose: Establishment and Construction

Submitted: December 11, 2009

Executive Summary

Description

Ditmas Park DC, LLC, a limited liability company to be renamed Ditmas Park Dialysis Center, LLC (DPDC), is seeking approval to amend and supercede CON #082094-B, which the Public Health Council (PHC) contingently approved on March 20, 2009. The amended application requests approval to increase the number of dialysis stations from 12 to 21. The applicant will still establish and construct the proposed dialysis center at Ditmas Park Rehabilitation and Care Center, LLC a 200-bed residential health care facility (RHCF) located at 2107 Ditmas Avenue, Brooklyn.

As background, Sandor Oberlander, the proposed sole member of Ditmas Park Dialysis Center, LLC, has transferred 100% ownership of the nursing home's operations to Ditmas Park Care Center LLC, which is owned by his four children (via CON #062422-E, approved by the PHC on December 26, 2008). The facility is now operating as Ditmas Park Rehabilitation and Care Center, LLC. The real property ownership of the facility remained unchanged. Dithold Associates, LLC, which leases the land and building at 2107 Ditmas Avenue, will continue to be owned by Sandor Oberlander (1%) and Oberlander Family Trust (99%).

Total project costs are estimated at \$658,419.

DOH Recommendation Contingent approval

Need Summary

According to IPRO data, there are 4,227 residents in Kings County requiring renal dialysis at any time during the year. These residents need a total of 939 free-standing stations for annual treatment.

Department of Health data indicate that Kings County currently has a total of 572 free-standing stations and 50 hospital-based stations – via 28 operational facilities (24 free-standing and 4 hospital-based). All except three

free-standing and two hospital-based facilities had over 100% utilization rates from 2006-08.

Program Summary

DPDC will enter into a transfer and affiliation agreement for emergency and back-up services with New York Methodist Hospital, which is 3 miles or 12 minutes in travel time from the Center.

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

Financial Summary

Total project costs will be met with \$65,849 in cash and a \$592,570 loan provided through CapQuest Group, LLC (5 yrs. @ 8.0%).

Budget:	<i>Revenues:</i>	\$ 3,625,896
	<i>Expenses:</i>	<u>3,136,323</u>
	<i>Gain/(Loss):</i>	\$ 489,573

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

Architectural Summary

In order to accommodate the expanded capacity, DPDC's footprint will increase from the currently approved 3,957 SF to the proposed 5,710 SF. The proposed space will include the renovation of 3,725 SF of the existing RHCF and the construction of a 1,985 square foot extension, contiguous to the renovated area. The portion to be renovated is currently occupied by the RHCF's administrative functions, which will be relocated to a newly-constructed addition (contingently-approved by the State Hospital Review and Planning Council on June 23, 2010).

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of fifty-five hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of a statement from the applicant, acceptable to the Department, that the proposed financial/referral structure has been assessed with the consultation of legal counsel, in light of anti-kickback and self-referral laws, and it is concluded that proceeding with the proposal is acceptable. [RNR]
3. Submission of an executed transfer and affiliation agreement, acceptable to the Department, with a local acute care hospital. [HSP]
4. Submission of loan commitment acceptable to the Department. [BFA]
5. Submission of a working capital loan commitment acceptable to the Department. [BFA]
6. Submission of executed sublease rental agreement acceptable to the Department. [BFA]

Approval conditional upon:

1. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
2. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
3. The applicant shall complete construction by June 1, 2014. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

Ditmas Park Dialysis Center, LLC is requesting approval to establish and construct a diagnostic and treatment center for the provision of a 21-station dialysis center, located in leased space at the Ditmas Park Rehabilitation and Care Center, 2107 Ditmas Avenue, Brooklyn. This project adds nine stations to 12 that were contingently approved under CON #082094-B.

The applicant reports that, currently, the residents of Ditmas Park Rehabilitation and Care Center (RHCF) must be transported three times per week to an off-site facility for treatment. The proposed center will primarily treat patients who are residents of the RHCF; however, these services will be made available to the general public. Based on the information provided by the applicant, the RHCF currently has 16 residents requiring dialysis services.

The dialysis center, which will be located on the first floor of the RHCF, will be accessible to residents of the RHCF directly through the elevator bank in the main lobby. Patients who are not residents of the RHCF will have access to the dialysis center through a dedicated street-level entrance. The dedicated entrance will allow use of the center by the general community without causing any disturbance to residents of the RHCF.

Public Need Criteria

The Department's estimates capacity for chronic dialysis stations are based on the following:

- One free standing station calculated at 702 treatments per year (2.5 shifts per day x 6 days per week x 52 weeks x 90% = 702). One free standing station can treat 4.5 patients per year.
- One hospital based station calculated at 499 treatments per year per station (2.0 shifts/day x 6 days/week x 52 weeks x 80% = 499). One hospital based station can treat 3 patients per year.

Per Department methodology, hospitals based stations can treat fewer patients per year. Statewide, the majority of stations are free standing as are the majority of applications for new stations. As such, when calculating the need for additional stations, the Department bases the projected need on establishing additional free standing stations.

Based upon DOH methodology, existing stations in Kings County could treat a total of 2,965 patients annually (2,799 in free standing facilities and 166 in hospital based facilities).

Analysis

The service area for this application is Kings County. The applicant expects that the Center will primarily treat patients who are residents of Ditmas Park Care Center, although the Center's services will be available to the general public.

The 2009 estimated population of Kings County is 2,567,098. Forty-eight percent of the service area is non-white. Minority groups are at a greater risk of developing Type II Diabetes, which is the leading cause of ESRD. Twelve percent of the population of Kings County is 65 years or older per estimated 2009 census data. The elderly are the fastest growing group of ESRD patients.

Capacity

Kings County has a total of 28 (24 Free Standing and 4 Hospital Based) operational facilities with 572 free standing stations and 50 hospital based stations as follows:

<i>Kings County</i>	<i>Approved & Operational</i>	<i>Approved but Not Operational</i>	<i>Total</i>
Free-Standing	572	50	622
Hospital-Based	50	2	52
Total	622	52	674

Patients noted below may or may not have resided in Kings County but were treated in Kings County facilities.

<u>2006</u>	<u>2007</u>	<u>2008</u>
3,312	3,411	3,554

From 2006-08, there was an overall increase of 7.2 percent in the number of patients treated.

Utilization

This is calculated based upon the patient population treated at the one facility (per IPRO) divided by patient capacity (number of patients treated in a year divided by the patient treatment capacity per Department methodology). Utilization for Kings County facilities in 2006-08 was 112 percent, 115 percent and 120 percent respectively.

Residents Receiving Dialysis: Per IPRO End Stage Renal Disease Network of NY, in 2009, 4,227 people resided in Kings County who received dialysis treatment in Kings or elsewhere. Using the DOH need methodology, 4,227 residents receiving in-center treatment would be best served by 939 free standing stations (hospital based stations not considered for calculation purposes).

Projected Need

Based upon a conservative estimate of a three (3) percent annual increase in patients treated in Kings County facilities and Kings County residents receiving treatment, it is projected that the current 674 stations will not be sufficient to meet the needs of patients or residents by 2013. Considering the projected increase in patients, there is a projected need for an additional 242 stations; considering the projected increase in residents needing dialysis treatment, there is a projected need for an additional 383 stations.

<i>Kings County</i>	<i>2009</i>		<i>2013</i>	
	<i><u>Patients</u></i>	<i><u>Residents</u></i>	<i><u>Patients</u></i>	<i><u>Residents</u></i>
Treated	3,661	4,227	4,120	4,758
Free Standing Stations Needed	813	939	916	1,057

The number of dialysis visits projected by the applicant is as follows:

Current year:	0
1st year projected visits:	9,504
3rd year projected visits:	11,232

Conclusion

The proposed project will make dialysis services available on-site to residents of the RHCF, enhancing the quality of life of these residents and especially of those who are ventilator dependent. The project will also aid in meeting the documented need for additional dialysis stations for the general public in the borough of Brooklyn.

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Program Description

Services to be provided are staff-assisted hemodialysis utilizing high-flux equipment, home dialysis training, social work and nutritional services to residents and persons in the community whom require chronic renal dialysis services.

The facility will operate three days a week, with additional hours as required.

The housing of the proposed dialysis unit within the 200 bed residential health care facility will not result in a reduction of space for the current nursing home services. The chronic renal dialysis facility will also have a separate outside entrance for direct access to the center by the general public.

Staffing will consist of 21 FTEs under the supervision of the Center's medical director, Lawrence Stam, a board certified nephrologist. Staffing is expected to increase to 25 FTEs by the third year of operation.

Emergency, in-patient and back-up support services will be provided under terms of an affiliation agreement with New York Methodist Hospital that is three miles and twelve minutes in travel time from the Center. An answering service, with access to center staff, will be provided to address patient concerns during hours when the facility is closed.

Compliance with Applicable Codes, Rules and Regulations

The medical staff will ensure that procedures performed at the Center conform to generally accepted standards of practice and that privileges granted are within the physician's scope of practice and/or expertise. The Center'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.

A sliding fee scale will be in place for those without insurance, and provisions will be made for those who cannot afford services. The governing body intends on using a patient satisfaction measurement tool, and discussions with their patients, to reflect responsiveness to community need, as well as provide continuous, ongoing feedback to the organization for the total quality management improvement program.

Character and Competence

The applicant's proposed officers and directors are:

Name

Sandor Oberlander – Sole Member of the LLC
Lawrence Stam, M.D. – Medical Director

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 and relatives' ownership interest in other health care facilities. Licensed individuals were checked against the Office of Medicaid Management (relative to Medicaid fraud and abuse), the Office of Professional Medical Conduct, and the Education Department databases.

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. Based on this information, staff concluded that the facilities have provided a substantially consistent high level of care as defined in New York State Public Health Law 2810(a)(3) and 10NYCRR 600.2 during the past 10 years.

The above reviews revealed nothing that would reflect adversely upon the applicant's character and competence or standing in the community.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Total Project Cost and Financing

Total project cost for the moveable equipment is estimated at \$658,419, broken down as follows:

	Cost for the Original 12-Station Dialysis Center	Cost Increases/ (Decreases)	Cost for the Revised 21-Station Dialysis Center
Renovation & Demolition	\$1,492,035	(\$1,492,035)	\$0
Design Contingency	149,203	(149,203)	0
Construction	149,203	(149,203)	0
Contingency			
Fixed Equipment	530,000	(530,000)	0
Architect's Fees	217,124	(217,124)	0
Other Fees	100,700	(40,700)	60,000
Moveable Equipment	416,532	152,553	569,085
IT & Telecommunication	15,900	6,600	22,500
Financing Costs	123,118	(123,118)	0
Interim Interest Expense	70,354	(70,354)	0
CON Application Fee	1,250	2,000	3,250
CON Processing Fee	<u>14,690</u>	<u>(11,106)</u>	<u>3,584</u>
Total Project Cost	<u>\$3,280,109</u>	<u>(\$2,621,690)</u>	<u>\$658,419</u>

It is estimated the proposed application will decrease by \$2,621,690 from the originally submitted CON 082094-B. The reduction in the project costs is the result of shifting the financial responsibility for the dialysis center's renovation from the applicant to the building's owner. That is, the majority of the project costs are moving from Ditmas Park Dialysis Center, LLC (applicant) to Dithold Associates, LLC (building owner). Sandor Oberlander is sole member of Ditmas Park Dialysis Center, LLC and Dithold Associates, LLC is 99% owned by the Oberlander Family Trust, with Sandor Oberlander owning the remaining 1% balance. The applicant states, the cost of renovation and new construction is estimated to be \$4,229,410, and will be reflected in the rent paid.

Construction was originally anticipated to start during July of 2009 and last for six (6) months, but is now expected to start on June 1, 2012, with a twenty-four month construct period.

Financing for the project is anticipated as follows:

	<u>Original</u>	<u>Change</u>	<u>Proposed</u>
Cash Equity	\$328,109	\$(262,260)	\$65,849
Original Bank Loan (10-yr @ 8%)	<u>\$2,952,000</u>	<u>(\$2,359,430)</u>	
Proposed Bank Loan (5-yr @ 8%)			<u>\$592,570</u>
Total Funds	<u>\$3,280,109</u>	<u>(\$2,621,690)</u>	<u>\$658,419</u>

Lease Rental Agreement

The applicant has submitted a draft sublease rental agreement, the terms are summarized below:

<i>Dated:</i>	December 16, 2010
<i>Premises:</i>	5,710 gross square feet located at 2107 Ditmas Avenue, Brooklyn, New York 11226
<i>Owner/Landlord:</i>	Dithold Associates, LLC
<i>Sub-landlord:</i>	Ditmas Park Care Center
<i>Sub-lessee</i>	Ditmas Park Dialysis Center, LLC
<i>Term:</i>	In accordance with sub-landlord lease, terms have been extended to December 31, 2016
<i>Rental:</i>	\$484,416 yearly includes owner's debt service of \$340,823 and an additional \$25 per

Provisions: square foot or \$142,750 per year plus \$843 per year for expenses.
The sub-lessee is responsible for maintenance

The lease arrangement is a non-arms' length agreement. The ownership is as follows:

<i>Owner/Landlord:</i>	Dithold Associates, LLC	
	Oberlander Family Trust	99%
	Sandor Oberlander	1%
<i>Sub-landlord:</i>	Ditmas Park Care Center	
	Sandor Oberlander	100%
<i>Sub-lessee:</i>	Ditmas Park Dialysis Center, LLC	
	Sandor Oberlander	100%

Operating Budget

The applicant has submitted first and third years operating budgets, in 2011 dollars, as summarized below:

	<u>Year One</u>	<u>Year Three</u>
Total Revenues*	\$3,068,065	\$3,625,896
Expenses:		
Operating*	\$2,072,854	\$2,514,340
Capital	<u>645,882</u>	<u>621,983</u>
Total Expenses	<u>\$2,718,736</u>	<u>\$3,136,323</u>
Excess of Revenues over Expenses	<u>\$349,329</u>	<u>\$489,573</u>
Utilization: (treatments)	9,504	11,232
Cost Per Treatment	\$286.06	\$279.23

* Includes pharmaceuticals

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

Medicaid Fee-for-Service	5.0%
Medicare Fee-for-Service	87.0%
Commercial Fee-for-Service	4.0%
Commercial Managed Care	4.0%

Expense assumptions are based on discussions with the local nephrologists. Ditmas Park Dialysis Center, LLC expects that their patients will come primarily from Ditmas Park Rehabilitation Care Center, the nursing home where the dialysis center is located. A break-even budget is expected to be met in the first year with 8,422 treatments.

Capability and Feasibility

Total project cost of \$658,419 will be met through Sandor Oberlander's equity contribution of \$65,849, with the remaining \$592,570 being provided from a loan through CapQuest Group, LLC at the above stated terms. Presented as BFA Attachment A is the sole member's net worth statement, which indicates adequate resources to meet the obligation, even after taking into consideration the \$4,922,451 he'll loan to his children for the construction project under CON 092036-C.

Working capital requirements are estimated at \$522,720, which appear reasonable based on two months of third year budgeted expenses. Mr. Sandor Oberlander will contribute 52% or \$272,720 from his personal resources with the balance of \$250,000 being provided through a 5-year, 8%, self-amortizing loan from CapQuest Group, LLC. Review of BFA Attachment A, Sandor Oberlander's net worth statement, shows there is adequate liquid assets for this purpose.

The financial projections shows that by the end of the first year net income will be \$349,329 and will be \$489,573 by the third year. Revenues reflect current reimbursement methodologies for dialysis services. Presented as BFA Attachment B is the pro forma balance sheet that shows that operations will start off with \$338,569 in member's equity.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Architectural Analysis

Background

The dialysis center will be constructed on the first floor of the facility. It will be constructed in 2,386 SF of existing renovated space and 2,348 SF of newly constructed space. Currently, the area to be renovated is used for resident dining, which is being relocated to the resident floors under a different CON.

The dialysis center will include the following: reception and waiting area, dialysis treatment area, office, exam room, water treatment room, soiled utility room, clean utility room, staff lounge, 3 toilet rooms, equipment room, medication room, janitor's closet and a store room.

Environmental Review

The Department has deemed this project to be a TYPE I Action and the lead agency shall be the City of New York or the authority having jurisdiction.

Recommendation

From an architectural perspective, conditional approval is recommended.

Attachments

- | | |
|------------------|--|
| BFA Attachment A | Net Worth Statement, Proposed Member of Ditmas Park Dialysis Center, LLC |
| BFA Attachment B | Pro Forma Balance Sheet, Ditmas Park Dialysis Center, LLC |
| BFA Attachment C | Establishment Checklist |

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Hospice – Establish/Construct

Exhibit #13

<u>Number</u>	<u>Applicant/Facility</u>
1. 082184 B	Visiting Nurse Service of New York Hospice Care (New York County)



Public Health and Health Planning Council

Project # 082184-B Visiting Nurse Service of New York Hospice Care

County: New York (New York)
Purpose: Establishment and Construction

Program: Hospice Services
Submitted: December 24, 2008

Executive Summary

Description

Visiting Nurse Service of New York Hospice Care (VNSNY-Hospice Care), an Article 40 hospice, proposes to become the new owner and operator of Pax Christi Hospice, Inc., an Article 40 hospice. Rather than operate two separate hospice agencies upon transfer of ownership, VNSNY-Hospice Care will instead merge all the operations of, and approvals for, Pax Christi Hospice, Inc. into its existing VNSNY-Hospice Care operations, resulting in the ultimate closure of the former Pax Christi Hospice, Inc.

Pursuant to U.S. Bankruptcy Court Case #10-11963 (CGM), this proposed acquisition and merger by VNSNY-Hospice Care, and closure of Pax Christi Hospice, Inc., actually occurred on June 21, 2010, following an emergency approval for this transaction issued by the Department of Health on May 14, 2010. The emergency approval required subsequent submission of this CON application for Public Health and Health Planning Council (PHHPC) approval.

VNSNY-Hospice Care is also requesting approval to create an overall 45-bed inpatient unit. The project would be implemented in two phases, with the first phase per this CON being the construction of a 25-bed inpatient unit in 12,420 SF of leased space on the 7th floor of Bellevue Hospital Center, located at 462 First Avenue, New York.

On August 31, 2010, VNSNY-Hospice Care received emergency approval to begin construction at Bellevue Hospital Center for the immediate provision of 25 beds per Phase I, in order to maintain hospice services on an uninterrupted basis. The second phase for the remaining 20 hospice inpatient beds will come under a separate CON, once the applicant has secured site control for additional space.

Total project costs are estimated at \$1,807,400.

DOH Recommendation

Contingent approval.

Need Summary

VNSNY-Hospice Care's emergency approval to assume the operation of Pax Christi Hospice encompassed all of Pax Christie Hospice's community-based hospice services in the 5 boroughs of New York City, along with its 45-bed inpatient hospice unit in New York County.

Program Summary

Approval is conditioned upon the applicant submitting a Phase II CON application for the remaining 20 hospice inpatient beds by July 1, 2011, and for those remaining 20 hospice inpatient beds to become operational within 12 months following PHHPC's contingent approval of the Phase II CON application.

Financial Summary

Project costs are to be met with equity.

Budget:	<i>Revenues:</i>	\$ 7,013,720
	<i>Expenses:</i>	<u>6,946,877</u>
	<i>Gain/(Loss):</i>	\$ 66,843

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

Bellevue Hospital Center will relocate a medical/surgical inpatient unit currently operating in the space occupying the east wing of the floor. The new hospice program will accommodate 11 double rooms and 3 single rooms to provide care for up to 25 patients. It will also accommodate the unit's need for staff facilities and requirements for family members. The unit will operate as a distinct and separate facility within the hospital. Renovation work will cause minimal disruption of surrounding areas.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of thirty hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of bylaws for VNSNY-Hospice Care, acceptable to the Department. [CSL]
3. Submission of a Certificate of Incorporation and bylaws for a member corporation, acceptable to the Department. [CSL]

Approval conditional upon:

1. Approval is conditioned upon the applicant's submission of a Phase II CON construction application for the remaining 20 of the approved 45 hospice inpatient beds in New York County no later than 90 days after the Public Health and Health Planning Council's final approval of this Phase I CON, and for those remaining 20 hospice inpatient beds to become operational within twelve (12) months following Public Health and Health Planning Council's contingent approval of said Phase II CON construction application. [LTC]
2. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
3. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's start of construction. [AER]
4. The applicant shall complete construction on or before December 17, 2013. In accordance with 10 NYCRR Part 710.2(b)(5), if construction is not completed on or before that date, this shall constitute abandonment of the approval. In accordance with Part 710.10(a), this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

Visiting Nurse Service of New York Hospice Care (VNSNY-Hospice Care) is a subsidiary of Visiting Nurse Service of New York (VNSNY), and presently serves New York County. VNSNY-Hospice Care seeks CON approval to become the new owner and operator of Pax Christi Hospice Inc., including its 45-bed inpatient hospice unit.

VNSNY-Hospice Care will operate the only hospice in New York County with inpatient hospice beds. Upon approval, VNSNY-Hospice Care will be authorized to provide hospice services in Bronx, Kings, New York, Queens, and Richmond Counties. The facility will operate 8 residence beds and 45 inpatient hospice beds.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Pax Christi Hospice, Inc., a not-for-profit Article 40 hospice was approved to serve Bronx, Kings, New York, Queens, and Richmond Counties, and was also approved to operate a 45-bed hospice inpatient unit in New York County. Twenty five such beds were operational, physically located within St. Vincent's Hospital – Manhattan, and 20 beds were non-operational. St. Vincent's Catholic Medical Centers (SVCMC) of New York, the active member corporation of Pax Christi Hospice, Inc. (and of St. Vincent's Hospital – Manhattan), declared bankruptcy and proceeded to divest itself of its health care facilities and agencies, requiring the closure of St. Vincent's Hospital – Manhattan, and requiring the sale and closure of Pax Christi Hospice, Inc. Pursuant to U.S. Bankruptcy Court Case # 10-11963 (CGM), Visiting Nurse Service of New York Hospice Care, a not-for-profit Article 40 hospice approved to serve Bronx, Kings, New York, and Queens Counties, was the successful bidder to purchase, acquire, and merge Pax Christi Hospice, Inc., into the existing Visiting Nurse Service of New York Hospice Care operations. Accordingly, Visiting Nurse Service of New York Hospice Care would acquire from the closed Pax Christi Hospice, Inc., approval for Richmond County as an approved geographic service area, and approval to operate 45 hospice inpatient beds in New York County. The actual court-ordered sale and legal transfer of assets occurred on June 21, 2010.

In addition to seeking Public Health and Health Planning Council approval for the establishment of Visiting Nurse Service of New York Hospice Care to acquire and merge Pax Christi Hospice, Inc., this CON application submitted by Visiting Nurse Service of New York Hospice Care also seeks at this time formal Council construction approval to operate 25 of its approved 45 hospice inpatient beds in leased space on the seventh floor of Bellevue Hospital. Pursuant to the emergency approval letter issued by NYSDOH on May 14, 2010, which required identification of a suitable location for the hospice inpatient bed unit to become operational as quickly as possible, and pursuant to the emergency approval letter issued by NYSDOH on August 31, 2010, granting conditional emergency approval to commence construction, this hospice inpatient unit proposal was submitted as Limited Architectural Review Application # 102001-L, which received conditional approval from the Bureau of Architectural and Engineering Facility Planning on November 18, 2010. The approval called for an immediate Phase I implementation of 25 beds to become operational in leased space on the seventh floor of Bellevue Hospital. This 25-bed hospice inpatient unit passed the onsite state pre-opening survey and life safety code inspection, and become operational effective February 1, 2011. Plans for Visiting Nurse Service of New York Hospice Care to operate the remaining 20 hospice inpatient beds approved for New York County will be forthcoming as a separate Phase II CON construction application when a suitable location is identified.

Establishment – Change Of Ownership (Acquisition and Merger) of Pax Christi Hospice, Inc.

Visiting Nurse Service of New York Hospice Care has as its member corporation Visiting Nurse Service of New York, a not-for-profit corporation. Visiting Nurse Service of New York is a passive member (passive parent) of Visiting Nurse Service of New York Hospice Care. Visiting Nurse Service of New York is also the member corporation of the

following not-for-profit corporations: Visiting Nurse Service of New York Home Care II, d/b/a Visiting Nurse Service of New York Home Care, which operates an Article 36 certified home health agency (CHHA) and long term home health care program (LTHHCP), and also operates VNS Children and Adolescent Mental Health Clinic, an Article 31 mental health clinic licensed by the NYS Office of Mental Health; Partners in Care, an Article 36 licensed home care services agency (LHCSA); Family Care Services, an Article 36 LHCSA; and VNS Continuing Care Development Corporation.

The latter corporation is the parent corporation of VNS Choice, a managed long term care plan, which also operates VNS Choice Plus, a Medicaid Advantage Plus managed long term care plan, and VNS Choice Select, a Medicare Advantage managed care program; and VNS Choice Community Care, an Article 36 LHCSA. An organizational chart is included.

The governing body of Visiting Nurse Service of New York Hospice Care is as follows:

Frank S. Vigilante, Chairperson
Retired Senior V.P., AT&T
Affiliations: VNA of Central Jersey, Inc. (owns several New Jersey facilities including one acute care hospital, two federally qualified health centers, one hospice with five branch offices, two certified home health agencies, one state licensed home care service agency, two ambulatory care facilities, and an outpatient rehabilitation facility), Visiting Nurse Service of New York, Visiting Nurse Service of New York Home Care

Corinne H. Rieder, Ed.D., Treasurer
Executive Director, Treasurer, The John A. Hartford Foundation (Charitable Foundation)
Affiliation: Visiting Nurse Service of New York, Visiting Nurse Service of New York Home Care

Mathy Mezey, R.N., Ed.D.
Director, Hartford Institute for Geriatric Nursing Education, NYU Division of Nursing;
Professor, NYU College of Nursing
Affiliation: Visiting Nurse Service of New York, Visiting Nurse Service of New York Home Care

Gayle Perkins Atkins
Retired
Affiliation: Visiting Nurse Service of New York, Visiting Nurse Service of New York Home Care

Nessa Coyle, RN, NP, PhD
Director, Supportive Care Program, Pain and Palliative Care Service, Department of Medicine, Memorial Sloan Kettering Cancer Center

Diane E. Meier, MD
Professor, Department of Geriatrics and Palliative Medicine, Mt. Sinai School of Medicine;
Director, Hertzberg Palliative Care Institute, Mt. Sinai School of Medicine

E. Mary C. Davidson, Vice Chairperson and Secretary
V.P., Maxwell Davidson Gallery (Art Dealer)
Affiliation: Visiting Nurse Service of New York, Visiting Nurse Service of New York Home Care

Paula L. Root
Retired
Affiliation: Visiting Nurse Service of New York, Visiting Nurse Service of New York Home Care

Robert M. Kaufman, Esq.
Partner, Proskauer Rose, LLP
Affiliations: Public Health Solutions, formerly Medical and Health Research Association of NYC (D&TC), Visiting Nurse Service of New York, Visiting Nurse Service of New York Home Care

Jane L. Barnet, MBA
Unemployed
Board Member, David L. Klein, Jr., Foundation (Philanthropic Foundation)

Amber B. Jones, M.Ed.
Self Employed Health Care Consultant for Hospice and Palliative Care; Former President and CEO of Hospice and Palliative Care Association of New York State

Margaret S. Neimeth, MSW, LCSW
Retired

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.

A search of all of 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 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 professionals associated with this application. In addition, the attorney has submitted a current Certificate of Good Standing.

The Division of Primary and Acute Care Services reviewed the compliance history of the affiliated diagnostic and treatment center for the time period specified as the affiliation. It has been determined that the affiliated diagnostic and treatment center has provided a substantially consistent high level of care.

The Division of Home and Community Based Services reviewed the compliance history of all affiliated long term home health care programs, certified home health agencies, licensed home care service agencies, and hospices for the time period 2000 to 2010, or for the time periods specified as the affiliations, whichever applied. The review revealed that the following provider was the subject of an enforcement action:

Visiting Nurse Service of New York Home Care was cited with condition-level deficiencies in the areas of Patient Rights, Organization, Services, Administration and Acceptance of Patients; Plan of Care; Medical Supervision; and Skilled Nursing Services, as a result of an April 27, 2000 survey. An enforcement action was resolved with a stipulation and order, which included payment of a \$10,000 civil penalty. A follow up visit on September 1, 2000 found the four conditions back in compliance. The agency has been in compliance since that time.

It has been determined that the long term home health care programs, certified home health agencies, licensed home care service agencies, and hospices have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations. When code violations did occur, it was determined that the operators investigated the circumstances surrounding the violation and took steps appropriate to the gravity of the violation that a reasonably prudent operator would take to promptly correct and prevent the recurrence of the violation.

The Office of Managed Care reviewed the compliance history of the affiliated managed care plan and managed long term care plans for the time periods specified as the affiliations. It has been determined that these providers have been in substantial compliance with all applicable codes, rules, and regulations, with no enforcement or administrative action imposed.

The NYS Office of Mental Health reviewed the compliance history of the affiliated mental health clinic for the time periods specified as the affiliations. It has been determined that the mental health clinic has been in substantial compliance with all applicable codes, rules, and regulations, with no enforcement or administrative action imposed. The State of New Jersey has reviewed the compliance histories of all the health care facilities operated under VNA of Central Jersey, Inc., and has determined the health care facilities have all been in substantial compliance with all applicable codes, rules, and regulations, with no enforcement or administrative action imposed.

A review of all personal qualifying information indicates there is nothing in the background of the board members of Visiting Nurse Service of New York Hospice Care to adversely affect their positions on the board. The applicant has the appropriate character and competence under Article 40 of the Public Health Law.

Construction – Operate 25-Bed Hospice Inpatient Unit in Leased Space at Bellevue Hospital

The current proposal seeks approval for Visiting Nurse Service of New York Hospice Care to operate a twenty five (25) bed hospice inpatient unit housed in leased space on the east wing of the 7th Floor of Bellevue Hospital Center, an Article 28 hospital located at 462 First Avenue, New York, New York 10016, and operated by New York City Health and Hospital Corporation. The hospital patient unit currently housed in the east wing of the 7th floor will be relocated elsewhere within Bellevue Hospital Center. Minimal renovation is required as the patient rooms already meet hospice inpatient unit construction code requirements. The hospice inpatient unit housed in this leased spaced will be

operated solely by Visiting Nurse Service of New York Hospice Care, separate and distinct from the Bellevue Hospital Center operations.

The hospice inpatient unit will be architecturally separated and distinct from the rest of the floor by swinging doors separating it from other hospital units. The hospice inpatient unit will be directly accessed from the 7th floor elevator banks, without the need to enter any other hospital inpatient space on the floor. The hospice inpatient unit will consist of three (3) single patient rooms, and eleven (11) double patient rooms. Each patient room has a lavatory, and space provided as a sleeping area for family and visitors. Bedding for overnight guests will be provided by the hospice. In addition, the unit has four (4) full bathrooms (three with a shower and one with a tub) on its main corridor, available for patients and overnight guests. The inpatient unit will also house a large family room at the end of the main corridor for recreational and social gatherings, and for dining and congregating meal times. The family room will also contain a kitchen area for patients and families to use for food storage and food preparation. A quiet room is available in the center of the main corridor for meditation, spiritual activities, and private meetings or small group gatherings. The nurses' station and work area is centrally located in the center of the hospice inpatient unit, immediately at the entrance to the hospice inpatient unit.

Overall administrative oversight of the proposed twenty five (25) bed hospice inpatient unit will be conducted by the Vice President / Administrator of Visiting Nurse Service of New York Hospice Care. Direct clinical oversight and supervision for the hospice inpatient unit is to be conducted by Visiting Nurse Service of New York Hospice Care's Director of Inpatient Services, who will be onsite full time Monday through Friday. Staffing will be on 8-hour day, evening, and night shifts. Direct care nursing staff for each shift will consist of 1 RN Supervisor, 2 RNs, 1 LPN, and 4 Nurse Aides. A full time Medical Director and Nurse Practitioner, and a per diem physician for nights, weekends, and holidays, will serve the hospice inpatient unit. In addition, staffing will include a full time social worker on the day shift 7 days a week, a half time chaplain 7 days a week plus on-call for after hours, a volunteer coordinator, and a bereavement counselor. An Interdisciplinary Group (IDG) team will be assigned specifically to the hospice inpatient unit, coordinated by the Director of Inpatient Services, and consisting of a physician, RN, social worker, spiritual care counselor and bereavement counselor. Additional members of the IDG may include a dietician, physical therapist, speech therapist / audiologist, respiratory therapist, occupational therapist, pharmacist, home health aide, volunteer coordinator, and/or volunteers. Food service, meal preparation and delivery, laundry, linen, and housekeeping will all be contracted with either an outside vendor or with Bellevue Hospital Center. All utilities, maintenance, and security will be included in the lease agreement with Bellevue Hospital Center.

Visiting Nurse Service of New York Hospice Care is currently in compliance with all applicable codes, rules, and regulations.

Recommendation

From a programmatic perspective, conditional approval is recommended, with an effective date of June 21, 2010, the date of the actual court-ordered sale and transfer of assets from Pax Christi Hospice, Inc., to Visiting Nurse Service of New York Hospice Care.

Financial Analysis

Background

Since its inception in 1983, VNSNY-Hospice Care has grown to become the largest provider of hospice services in New York City. Since June 2007, the existing VNSNY-Hospice Care 8-bed hospice residence located on the Upper East Side of Manhattan, has operated at capacity and currently maintains a waiting list for admission.

In late 2007, the Department committed to expanding the Hospice Residence Demonstration Program by issuing a request for applications. To increase the total number and size of existing programs, VNSNY-Hospice Care applied for and was awarded permission to submit this CON application. VNSNY-Hospice Care will enter into a license agreement with Bellevue Hospital Center to occupy the seventh floor of Bellevue's facility located at 462 First Avenue, with a separate entrance on 27th Street. The space will require minimum renovation since rooms currently meet required codes for a hospice inpatient unit.

Total Project Cost and Financing

Total project cost for equipment and construction are estimated at \$1,807,400, broken down as follows:

Renovation and Demolition	\$1,079,188
Construction Contingency	107,919
Architect/Engineering Fees	38,000
Construction Manager Fees	24,000
Movable Equipment	550,893
CON Application Fee	2,000
CON Processing Fee	5,400
Total Project Cost	\$1,807,400

Total costs are based on a three month construction period with a start date of October 5th, 2010.

The applicant's financial plan appears as follows:

Equity	\$1,807,400
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License Agreement

The applicant has submitted an executed License Agreement for the site to be occupied. The terms of which are summarized below:

- Dated:* July 1, 2010
- Premises:* 462 First Avenue, New York, New York 10016-Seventh floor/East corridor North to South
- Licensor:* New York City Health and Hospital Corporation
- Licensee:* Visiting Nurse Service of New York Hospice Care
- Rental:* 12,420 square feet @ \$42.24 per square foot. \$524,621 annual, and \$43,718 monthly
- Term:* 5 years certain, 5 year renewal, with second 5 year renewal with landlord's reasonable consent.
- Provisions:* The Licensor shall be responsible for maintenance and utilities
- Type:* Arms length

Operating Budget

The applicant has submitted an operating budget, in 2010 dollars, for the first and third years of operation, summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:	\$6,579,303	\$7,013,720
Expenses:		
Operating:	\$5,848,993	\$6,216,435
Capital:	700,909	730,442
Total Expenses	\$6,549,902	\$6,946,877
Excess of Revenues over Expenses	\$29,401	\$66,843
Utilization: (days)	7,951	8,395
Cost Per Day	\$823.78	\$827.50

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

	<u>Years One and Three</u>
Medicare	70.61%
Medicaid	14.59%
Other Third Party	14.80%

Expense and utilization assumptions are based on industry norms and the prior experience of VNSNY Hospice care.

Capability and Feasibility

The issue of capability is centered on the applicant’s ability to meet the total project cost, the working capital requirements, and to initiate operations as a financially viable entity. \$1,807,400 will be provided from accumulated funds. Presented as BFA Attachment A is the 2008-2009 certified financial summary for Visiting Nurse Service of New York and subsidiaries, which indicates the availability of sufficient funds.

The working capital requirement is estimated at \$1,157,813, which appears reasonable based on two months of third year expenses, and will be satisfied from accumulated funds. Reference to BFA Attachment A, Visiting Nurse Service of New York and Subsidiaries certified financial statement indicates the availability of sufficient funds to provide the working capital financing.

The issue of feasibility is centered on the applicant’s ability to offset expenses with revenue and maintain a viable operating entity. The revised budget indicates a gain of \$29,401 and \$66,843 during the first and third years of operation.

Revenues are based on current reimbursement methodologies for inpatient hospice services.

As noted in BFA Attachment A, Visiting Nurse Service of New York and Subsidiaries maintained both a positive average annual net asset position and working capital position, and generated an average loss of \$74,508,500. The average loss shown is due to the facility having a loss of \$292,670,000 in 2008 and a gain of \$143,653,000 in 2009. The 2008 loss was caused by a significant downturn in the S&P 500 of nearly 40%, in which a significant amount of the company’s financial portfolio is held. In 2008, the unrealized losses were \$295,000,000.

In 2009, the market rebounded, which caused the company to show an unrealized gain of \$146,000,000. In order to have such a substantial turnaround, the company modified their asset allocation, and shifted from separate accounts to greater index funds, which reduced transactions and manager costs. They also diversified and went into more international and hedge funds. In 2009, they continued to build up their hedge fund portfolio, and moved their core fixed income portfolio to government bonds and Treasury Inflation Protected Securities (TIPS). The applicant indicates that they also enhanced their knowledge of investment risk, including beginning the process of implementing a full scope risk analysis systems, which appears to be working as the facility is again showing a positive net income position in the 2010 interim financial statements of \$80,114,000, as shown in BFA Attachment B. Also, it shows that the facility was again able to generate a positive income from operations. The main reason for the operating loss for 2008 was due to the facility incurring \$13.7 million in recruitment training and retention costs in 2008, but not receiving the reimbursement until 2009 to pay for the training.

Based on the preceding information, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Architectural Analysis

Background

This project will consist of minimal work covering approximately 12,220 SF, because the rooms currently comply with codes for a hospice inpatient unit. The renovation will include replacement of fixtures and upgrade of finishes throughout with the creation of common use areas and guest bathroom facilities. New finishes will be provided for patient rooms, staff offices and patient support spaces. The overall project will include 3 single patient rooms, 11 double patient rooms, nurse station, clinical chart room, medication room, supervisor’s office, visitor toilets, bereavement counseling room, patient shower rooms, family room, social worker’s office, IT Room and staff room. The new hospice program will also include a nourishment station, quiet room, clean utility room, soiled utility room, telecommunication room, manager’s office, electrical room, storage room, staff toilet and janitor/housekeeping room.

On August 31, 2010, VNSNY-Hospice Care received emergency approval from the NYS Department of Health to begin construction at Bellevue Hospital Center for the immediate provision of 25 inpatient hospice beds, due to the pending closure of SVCMC and displacement of the Pax Christie program.

Upon completion of the current renovation project, VNSNY-Hospice Care will establish a new 25-bed inpatient unit at Bellevue Hospital Center as Phase I of a project to eventually operate 45 inpatient Hospice beds as a result of its Pax Christi acquisition.

Environmental Review

The Department has deemed this project to be a TYPE II Action and will not have a significant effect on the environment. An Environmental Impact Statement is not required. However, any agency that has an interest in this project may make their own independent determination of significance and necessity for an EIS in accordance with the procedures specified within Part 97.8 of Title 10: Rules and Regulations.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

- | | |
|------------------|---|
| BFA Attachment A | Financial Summary: 2008-2009 Certified Financial Statements for Visiting Nurse Service of New York and Subsidiaries |
| BFA Attachment B | Financial Summary: 1/1/2010 – 11/30/2010 Interim Financial Statements for Visiting Nurse Service of New York and subsidiaries |
| DHCBS Attachment | VNSNY Organization Chart |

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Residential Health Care Facilities - Establish/Construct

Exhibit #14

	<u>Number</u>	<u>Applicant/Facility</u>
1.	062433 B	Brooklyn-Queens Nursing Home (Kings County)
2.	092050 E	Woodbury Center for Health Care (Nassau County)
3.	092056 E	White Plains Center for Nursing Care, LLC (Westchester County)
4.	092156 E	Sprain Brook Manor Rehab, Inc. d/b/a Sprain Brook Manor Nursing Home (Westchester County)
5.	102048 E	Ozone Acquisitions, LLC d/b/a Central Island Healthcare (Nassau County)
6.	102234 E	Wedgewood Care Center, Inc. d/b/a Highfield Gardens Care Center of Great Neck (Nassau County)
7.	102346 E	KFG Operating Two, LLC d/b/a Bensonhurst Center for Rehabilitation and Healthcare (Kings County)
8.	111186 E	Autumn View Health Care Facility, LLC (Erie County)

9. 111188 E Brookhaven Health Care Facility, LLC
(Suffolk County)
10. 111189 E Garden Gate Health Care Facility
(Erie County)
11. 111190 E Harris Hill Nursing Facility, LLC
(Erie County)
12. 111191 E North Gate Health Care Facility
(Niagara County)
13. 111192 E Seneca Health Care Center
(Erie County)
14. 111248 E Morningstar Care Center, Inc. d/b/a Morningstar Residential Care
Center
(Oswego County)



Public Health and Health Planning Council

Project # 062433-B Brooklyn-Queens Nursing Home

County: Kings (Brooklyn)

Purpose: Establishment and Brooklyn

Program: Residential Health Care Facility

Submitted: December 29, 2006

Executive Summary

Description

Brooklyn Queens Nursing Home (BQNH), a 140-bed proprietary residential health care facility (RHCF) located at 2749 Linden Boulevard, Brooklyn, requests approval to construct a 160-bed replacement facility. The applicant has purchased 45 beds from Lemberg Home and Geriatric Institute, 20 of which will be allocated to the replacement RHCF. The remaining 25 beds will be surrendered to the Department of Health upon approval of this project.

Also within this CON, the current sole shareholder will transfer 40% of the corporation's stock to a new owner, Israel Berkowitz, brother of the current owner. The ownership after the transfer will be as follows:

Leopold Berkowitz	60%
Israel Berkowitz	40%

Total project costs are estimated at \$50,509,696.

DOH Recommendation
Contingent approval

Need Summary

The proposed replacement facility is necessary for the following reasons:

- * The physical plant is antiquated and inefficient.
- * Physical plant challenges impact residents' quality of life, creating limited mobility, decreased independence and barriers to socialization.

The new facility will provide amenities that include a beauty parlor, chapel, recreation room, and an outdoor rooftop recreation area. These new living facilities are expected to increase utilization for BQNH.

<i>RHCF Bed Need</i>	<i>New York City</i>
2016 Projected Need	51,071
Current Beds	43,454
Beds Under Construction	635
Total Resources	44,089
Unmet Need	6,982

Program Summary

The proposed project will create a more home-like environment and will enhance the quality of life and delivery of resident care. No changes in program have been proposed for the residents of the nursing facility.

Financial Summary

Project costs will be met with the following: Land Equity of \$5,000,000; Cash Equity of \$4,730,696 and Bank Loan of \$40,779,000 (30 yrs. @ 7.00%).

Year 3 Budget:	<i>Revenues:</i>	\$ 16,964,582
	<i>Expenses:</i>	<u>16,278,064</u>
	<i>Gain/(Loss):</i>	\$ 686,518

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

Architectural Summary

The applicant proposes to construct a seven-story, 160-bed replacement facility with 20 net new beds on property that is contiguous to the existing facility.

Recommendations

Health Systems Agency

There is no HSA recommendation for this application.

Office of 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. The 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]
3. Submission of a commitment that is acceptable to the Department of Health, for a permanent mortgage from a recognized lending institution at a prevailing rate of interest within 120 days of receipt from the Department of Health, Bureau of Architectural and Engineering Facility Planning of approval of final plans and specifications and before the start of construction. Included with the submitted permanent mortgage must be a sources and uses statement and debt amortization schedule, for both new and refinanced debt. [BFA]
4. Submission of an executed stock purchase agreement that is acceptable to the Department. [BFA]
5. Submission of an executed lease rental agreement that is acceptable to the Department. [BFA]
6. Submission of a working capital loan commitment that is acceptable to the Department. [BFA]

Approval conditional upon:

1. The applicant shall complete construction by December 31, 2015. In accordance with 10 NYCRR Part 710.2(b)(5) and 710.10(a), if construction is not completed on or before that date, this may constitute abandonment of the approval and this approval shall be deemed cancelled, withdrawn and annulled without further action by the Commissioner. [AER]
2. The submission of State Hospital Code (SHC) Drawings for review and approval, as described in BAEFP Drawing Submission Guidelines DSG-01. [AER]
3. The submission of Final Construction Documents, as described in BAEFP Drawing Submission Guidelines DSG-01, prior to the applicant's request for, and Department's granting approval for the start of construction. [AER]

Council Action Date

June 16, 2011.

Need Analysis

Background

Brooklyn-Queens Nursing Home (BQNH), a 140-bed Residential Health Care Facility (RHCF), located at 2749 Linden Boulevard, Brooklyn in Kings County seeks approval to construct a 160-bed replacement facility on previously purchased land through a turnkey arrangement. The current capacity of BQNH is 140 beds. BQNH purchased 45 RHCF beds from The Lemberg Home and Geriatric Institute, Inc. On November 3, 2006, twenty-five of the 45 beds will be surrendered and 20 will be utilized by BQNH, bringing the total bed count to 160. The current owner will also transfer 40% of the corporation's stock to a new owner, Israel Berkowitz.

Analysis

Although application of the Section 709.3 (Title 10 NYCRR) RHCF bed need methodology to the five boroughs indicates a need for additional RHCF beds in the New York City planning area, Section 709.3 also states that there shall be a presumption of no need if the overall occupancy of existing RHCF's in the planning area is below 97%. This is the case for New York City as a whole and for Kings County, where BQNH is located. However, Section 709.3 also provides that the presumption of no need may be rebutted by consideration of local factors that may include but are not limited to:

- (1) The impact of requirements pertaining to placing persons with disabilities into the most integrated setting appropriate so as to enable persons with disabilities to interact with non-disabled persons to the fullest extent possible;
- (2) The growth, availability and cost-effectiveness of long-term home and community-based services, other non-institutional residential programs and of other programs and services that may serve as a substitute for or prevent the need for residential health care facility placement;
- (3) Occupancy rates, and the trend of those rates of existing residential health care facilities in the planning area and in contiguous counties;
- (4) Patient migration patterns that vary from those included in the methodology set forth in subdivision (d) of this section;
- (5) The health status of residents of the planning area or the state, as applicable;
- (6) Recommendations made by the local health systems agency, if applicable;
- (7) Documented evidence of the unduplicated number of patients on waiting lists who are appropriate for and desire admission to a residential health care facility who experience a long waiting time for placement and who cannot be served adequately in other settings.

Local features of Kings County and the area to be served by BQNH that bear consideration are:

- Kings County has the largest population of any county in the state, estimated at 2,567,098 for 2009.
- Kings County has an above average growth rate of 4.1% compared to the 3% state average.
- Kings County has an above average number of people living below the poverty level – 21.1%, compared to the state average of 13.7%.
- The area where the proposed facility would be located, East New York and New Lots, has an above average unhealthy elderly population with an elevated risk of heart disease, obesity, and diabetes. Nearly 1 in 3 adults is obese and 16% have diabetes. Over the past 10 years, the hospitalization rate has increased by 35% for heart disease and 35% of residents have an elevated blood pressure level. For 2003 – 2004 the percent death rate for the area was 20% higher than the rest of New York City as a whole.

These several factors of population growth, poverty and poor health indicators in the adult population are distinctive features of the borough and the area that would be served by BQNH. The Department also finds worthy of consideration the fact that BQNH is an outdated facility, one in need of major renovation or, as proposed, full replacement. The proposed replacement facility will have up-to-date features that will improve the quality of residential life and health care.

The Department also notes that in proposing this replacement facility, BQNH intends to reduce from 45 to 20 the additional certified RHCF beds it purchased in the closure of the Lemberg Home and Geriatric Institute. The

remaining 20 certified beds will account for the increase in capacity, from 140 to 160 beds, of BQNH's proposed replacement facility. In proposing the addition of 20 beds to its replacement facility, then, BQNH is actually proposing a net reduction of 25 beds in its overall certified bed capacity. This voluntary reduction in certified bed capacity is in keeping with the need for rightsizing of the long-term care system recommended by the Commission on Health Care Facilities in the Twenty-First Century (the Berger Commission) and as reflected in the recommendations of the Medicaid Redesign Team. BQNH's proposal for replacement of its facility is thus both responsive to a need for improved quality of care for its residents and compatible with the need for greater efficiency in the delivery of long-term care.

Upon approval the facility bed complement will be as follows:

<u>Bed Complement</u>	<u>Current Beds</u>	<u>Requested Change</u>	<u>Beds Upon Completion</u>
BQNH	140	+20	160

Occupancy rates at Brooklyn-Queens Nursing Home decreased from 94.2% percent in 2007 to 92.7 percent in 2009. The most recent utilization report shows the facility has a 99% occupancy rate for 2011 to date.

<u>RHCF Utilization</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Brooklyn-Queens Nursing Home	94.2%	94.0%	92.7%
Kings	91.8%	92.2%	92.3%

At the end of 2010, the facility's Case Mix Index (CMI) was 1.02. The facility had 15 Physical A's and 4 Physical B's.

Section 670.3 indicates that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for Kings County. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

Brooklyn-Queens Nursing Home Medicaid admissions:

2008 – 82.5% of all admissions
 2009 – 42.3 % of all admissions

Kings County 75% of all Medicaid admissions:

2008 – 29.4%
 2009 – 15.0%

BQNH exceeds the Medicaid admissions standard of 75% of the planning area Medicaid admissions percentage. The facility will be required to maintain policies and practices that ensure that this standard continues to be met.

Conclusion

Population growth trends, high levels of poverty and poor health status indicators among the population of the area served by BQNH, together with the need for improved quality of care through replacement of an outdated structure, indicate a need for the proposed replacement facility and its additional 20 beds.

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Existing (Currently Closed)</i>	<i>Proposed</i>
<i>Facility Name</i>	Brooklyn-Queens Nursing	The Lemberg Home and	Brooklyn-Queens Nursing

	Home	Geriatric Institute, Inc.	Home
<i>Address</i>	2749 Linden Boulevard Brooklyn, NY 11208 (Kings County)	8629 Bay Parkway Brooklyn, NY 11214 (Kings County)	2749 Linden Boulevard Brooklyn, NY 11208 (Kings County) Same campus
<i>RHCF Capacity</i>	140	45 <i>(All of the facility's beds- facility closed 5/03/07)</i>	160 <i>(25 beds will be surrendered)</i>
<i>Type Of Operator</i>	Proprietary	Voluntary	Proprietary
<i>Class Of Operator</i>	Corporation	Corporation	Corporation
<i>Operator</i>	Brooklyn-Queens Nursing Home Inc Leopold Berkowitz-100%	Lemberg Home & Geriatric Institute, Inc.	Brooklyn-Queens Nursing Home Inc Leopold Berkowitz-60% Israel Berkowitz-40%

Character and Competence

- FACILITIES REVIEWED:

Brooklyn-Queens Nursing Home (10 years)

- INDIVIDUAL BACKGROUND REVIEW:

Israel Berkowitz is currently licensed in good standing as a Physician in New York State. He has been self-employed in private practice since July 1, 1986. Dr. Berkowitz has not disclosed any interest in facilities/agencies.

Leopold Berkowitz has disclosed employment as the president of Brooklyn-Queens Nursing Home since March of 1994. Mr. Berkowitz is currently licensed in good standing as a New York State Nursing Home Administrator. Mr. Berkowitz is also currently licensed in good standing as an attorney in New York State. Mr. Berkowitz has disclosed interest in Brooklyn-Queens Nursing Home since 1988.

Character and Competence – Analysis:

No adverse information has been received concerning the character and competence of Israel Berkowitz or Leopold Berkowitz.

A review of the operations of Brooklyn-Queens Nursing Home for the last ten years reveals that a substantially consistent level of care has been provided.

Project Review

- PHYSICAL ENVIRONMENT:

The 160 bed design consisted of a seven story replacement building on typical units of 40 beds on floors three through six. The building's configuration is to be as follows:

First Floor

The building will be built on grade without a basement because of the high water table. Parking spaces will be provided outside on this level. The entrance to the building is also at this level leading into the lobby, reception and security. This level also will consist of Administration, Admissions, OT/PT, Social Services, ambulance entry, equipment storage, loading and receiving, medical offices, beauty and barber facilities and a large multi-purpose recreation room which opens onto outdoor recreation areas.

Second Floor

The second floor will consist of support services such as, kitchen, housekeeping, maintenance, administrative offices, male and female locker rooms, staff dining, and storage areas for both resident and facility use.

Third – Sixth Floors

The 3rd – 6th floors are 40 bed units totaling 160 beds. There are four single bedded rooms per floor, with one of those being designed and used for infection control when needed. The balance of the 160 beds is double rooms. Each room will have a closet and dresser for each resident’s personal items as well as a night table at each bed. The resident’s room will have a private wheelchair accessible toilet with a lavatory and water closet. The infection control room will also be provided with a shower within the toilet room.

The nursing units on each floor will be served by a central core of support spaces with the nurse’s station as its nucleus for efficient monitoring of patient spaces. Two independent dining rooms serve each floor in an effort to create “Communities” on each floor. Open lounge spaces will be provided on each end of the floor for resident and visitation use. The resident’s meals will be prepared in the kitchen and brought to the resident floors by two large service elevators and two standard sized elevators. The service elevators both have doors on each end of the elevator to carry meals to the resident dining rooms without entering corridor spaces. This will permit efficient delivery of meals while avoiding circulation conflicts with residents and staff. The dining rooms will be outfitted with a pantry/nutrition station which will provide beverages and snacks to the residents between meals.

Three centralized tub, shower and toilet facilities will be located on each 40 bed nursing unit. They will be situated for ease of access from all points on the floor as well as for privacy. Wheelchair training toilets will be provided within each of these central bathing areas.

Seventh Floor

The 7th floor will be much smaller than the other floors and will include a large multi-purpose room, a sunroom sitting area, rooftop terrace, barber/beauty room and staff offices.

Project Review – Analysis:

The proposed floor plans are programmatically acceptable and should improve the quality of life and delivery of services to the residents.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Purchase Agreement

The applicant has submitted an executed purchase agreement for the acquisition of beds, of which the agreements are summarized below:

<i>Purpose:</i>	The purchase of 45 beds
<i>Seller:</i>	Lemberg Home and Geriatric Institute, Inc.
<i>Buyer:</i>	Brooklyn Queens Nursing Home, Inc.
<i>Purchase Price:</i>	\$499,999
<i>Payment of Purchase Price:</i>	The Buyer is lending the Seller \$499,999.

As mentioned in a previous section, the 25 beds will be surrendered to the Department upon approval of this project.

Stock Purchase Agreement

The applicant has submitted a draft stock purchase agreement for the purchase of 40% of the outstanding shares of the Corporation, of which is summarized below:

Purpose: The sale of 40% of the outstanding shares of the Corporation
Seller: Leopold Berkowitz
Purchaser: Israel Berkowitz
Purchase Price: \$22,734
Payment of Purchase Price: Cash at Closing

Land Purchase Agreement

The applicant has submitted an executed purchase agreement for the site that the replacement nursing home will be occupied, summarized below:

Date: September 25, 2007
Premises: 783 Eldert Lane, Brooklyn, New York
Seller: Tiffany Associates, Inc.
Purchaser: Skyview Realty Associates, Ltd.
Purchase Price: \$5,000,000
Payment of Purchase Price: Cash at Closing

Lease Rental Agreement

The applicant has submitted a draft lease rental agreement for the site to be occupied, which is summarized below:

Premises

Lessor: Skyview Realty Associates, Ltd.
Lessee: Brooklyn Queens Nursing Home, Inc.
Term: 30 year term
Rental: The Basic Annual Rent shall be equal to the sum of the amount equal to Landlord's annual debt service payment to the Mortgagee and such additional amount as may be required to fund the Landlord insurance and other reserve requirements. The annual rental payments are approximately \$3,286,314 during the lease term
Provisions: The lessee shall be responsible for taxes and insurance.

Medicaid capital reimbursement for the replacement facility will be based on the interest, amortization and return of and return on equity reimbursement methodology.

Total Project Cost and Financing

Total project cost for the replacement facility is estimated at \$50,509,696, broken down as follows:

Land Acquisition	\$5,000,000
New Construction	30,827,520
Site Development	338,310
Design Contingency	3,082,752
Construction Contingency	1,541,376
Architect/Engineering Fees	2,379,802
Other Fees (Consultant)	86,400
Moveable Equipment	1,486,080
Telecommunications	561,600
Financing Costs	1,835,100
Interim Interest Expense	3,092,483
CON Fee	2,000
Additional Processing Fee	<u>276,273</u>
Total Project Cost	\$50,509,696

Project costs are based on a January 1, 2012 construction start date and a twenty four month construction period.

Land acquisition costs are based on the lower of cost or market. The applicant provided an executed purchase agreement in support of land acquisition costs. The applicant provided an MAI appraisal of which exceeded the land acquisition costs.

Based on the mid-point of construction in 2012, the Bureau of Architectural and Engineering Facility Planning has determined that the respective cost per bed is within appropriate bed cost caps.

The applicant’s financing plan appears as follows:

Land Equity	\$5,000,000
Equity	\$4,730,696
Bank Loan (7.00% for a 30 year term)	\$40,779,000

The Department is reducing the recommended equity contribution to 19.26% because of the project cost being below the applicable RHCF caps.

Operating Budget

The applicant has provided an operating budget, in 2011 dollars, for the third year subsequent to the replacement facility and the addition of a shareholder. The budget is summarized as follows:

	<u>Per Diem</u>	<u>Total</u>
Revenues:		
Medicaid	\$275.99	\$13,284,007
Medicare	486.58	2,756,494
Private Pay	326.29	<u>924,081</u>
Total Revenues		\$16,964,582
Expenses:		
Operating	\$219.21	\$12,417,959
Capital	<u>68.14</u>	<u>3,860,105</u>
Total Expenses	\$287.35	\$16,278,064
Net Income		\$686,518
Utilization: (patient days)		56,648
Occupancy		97.00%

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

- o The capital component of Medicaid revenues is based on the interest, amortization and return of and return on equity reimbursement methodology.
- o Expenses include lease rental.
- o Overall utilization for the third year is projected at:

Medicaid	85.00%
Medicare	10.00%
Private Pay	5.00%
- o Breakeven occupancy is projected at 93.06%.

Capability and Feasibility

The applicant will finance \$40,779,000 via an interest rate of 7.00% for a thirty year term. The applicant will contribute \$5,000,000 via land equity. The remainder, \$4,730,696, will be contributed via equity from the shareholder.

Working capital requirements are estimated at \$770,000 and will be provided by the shareholders of Brooklyn Queens and via a loan of \$350,000 at an interest rate of 5.25% for a five year term. In view of the fact that residents will be transferred from the existing nursing home, the ordinary fill-up costs for a new facility will not be incurred. Presented as BFA Attachment A are the personal net worth statements of the shareholders of Brooklyn Queens Nursing Home, which indicates the availability of sufficient funds for the equity contribution. Costs associated with the relocation of residents, staff and equipment are estimated at \$20,000. Incremental interest and depreciation is \$4,345,000.

The submitted budget indicates a net income of \$686,518. Following is a comparison of historical (2009) and projected revenues and expenses:

2009 Historical Income	\$12,034,605
2009 Historical Expense	<u>11,671,589</u>
2009 Net Income	\$363,016
Incremental Income	\$4,929,977
Incremental Expense	<u>4,606,475</u>
Net incremental Income	\$323,502
Projected Net Income	\$686,518

Incremental income includes the increase in revenues resulting from the additional beds and an increase in Medicare and Private Pay utilization of .24% and 4.65%, respectively. The applicant has indicated that the reason for the increase in Medicare and Private Pay is that the facility will attract a larger Medicare short-term rehabilitation population. The projected Private Pay utilization is consistent with the County's historical experience. The applicant has projected an overall increase in occupancy due to a state of the art facility; the ability to address a larger Medicare rehabilitation population; will strengthen the current admissions process by developing a community outreach program that will inform surrounding hospitals, home health agencies, assisted living facilities and adult care facilities of the proposed new facility; provide community education programs to better serve the community and institute a weekend admissions process. Incremental expenses include rent expense, additional expenses associated with the additional twenty beds and the difference between the current year and average historical levels. Budgeted net income appears reasonable.

As shown on BFA Attachment B, Brooklyn Queens Nursing Home had an average positive working capital position and an average negative net asset position, and generated an average net income of \$163,741 during the period shown.

The applicant has indicated that the 2008 loss was the result of a negative retroactive rate adjustment of \$1,375,885.43 that was reported in 2008.

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

Recommendation

From a financial perspective,contingent approval is recommended.

Architectural Analysis

Background

The proposed Nursing Home is a 160 bed skilled nursing facility. The building is a seven story structure with 28 parking spaces at grade. The gross square footage is approximately 127,350 square feet. The structure will have four typical resident floors of 40 bed nursing units located on the third through the sixth floors. Due to a high water table, there is no cellar. Therefore, function spaces which would typically be located on this lower level are all above grade. As a result, there is a partial seventh floor for resident services, activity spaces and offices.

- First Floor (20,085 SF New Construction)

The first floor of the building is the entry level into the facility. Reception and security are located at this point. It also contains administrative services including an ambulance entry, admissions and social services, clean and soiled holding rooms and meter rooms. The loading and receiving area is also located within this floor. Resident services on the first floor include a large physical therapy space with related equipment and storage. There is also occupational and speech therapy, audiology, a suite of medical offices, beauty/barber facilities and a large multi-purpose recreation room which opens onto outdoor recreation areas.

- Second Floor (20,157 SF New Construction)

The second floor of the building contains support service facilities. For deliveries, this level is linked to grade by a service elevator. The service functions located on this level are the kitchen with related storage, housekeeping, maintenance, locker rooms, staff dining, and storage areas for both resident and facility use. There are two hospital size and two standard elevators which serve the facility. Two of the elevators open both front and back to carry meals from the kitchen to the resident dining rooms without entering corridor spaces. This will permit efficient delivery of meals while avoiding circulation conflicts with residents and staff waiting to use elevators. Administrative services on this floor include offices, accounting, nursing and medical director.

- Third Floor – Sixth Floor (19,425 SF New Construction Each Floor)

The typical 40 bed resident nursing units lie within the third through sixth floors totaling 160 beds. There are four single bedded rooms per floor, with one of those being used for infection control when needed. The balance is doubles. Each room will have a closet and dresser for each resident's personal items as well as a night table at each bed. Each room will have a private handicapped accessible toilet with a lavatory and a water closet. The infection control room's toilet room also contains a shower.

The nursing units on each floor will be served by a central core of support spaces with nurses' station as its nucleus for monitoring of patient spaces. Each nurses' station will be equipped with desk and storage space for the maintenance and filing of patient records. Directly adjacent will be a medication room, staff lounge, lockers, and toilet.

Two independent dining rooms will serve each floor in an effort to create communities on each floor. Large open lounge spaces for resident use will be located at opposite ends of the facility. The dining rooms will be outfitted with a pantry/nutrition station.

Three centralized tub, shower, and toilet facilities will be located on each nursing unit. Wheelchair training toilets will be provided within each of these central bathing areas.

Also located on each typical resident floor will be support services of equipment storage, janitor's closet, wheelchair/stretchers storage and clean and soiled utility rooms.

- Seventh Floor (9,410 SF New Construction)

The seventh floor houses a rooftop multi-purpose room, a roof terrace, resident services and some office and training spaces.

Environmental Review

The Department has deemed this project to be a TYPE I Action and the lead agency shall be the City of New York or the authority having jurisdiction.

Recommendation

From an architectural perspective, approval is recommended.

Attachments

BFA Attachment A Personal Net Worth

BFA Attachment B Financial Summary- Brooklyn Queens Nursing Home



Public Health and Health Planning Council

Project # 092050-E
Woodbury Center for Health Care

County: Nassau (Woodbury)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: July 28, 2009

Executive Summary

Description

Woodbury Center for Health Care, a 123-bed proprietary partnership residential health care facility (RHCF) located at 8533 Jericho Turnpike in Woodbury, is seeking approval for a 76% transfer of ownership interest from one partner to one existing partner and one newly proposed partner. Ownership of the operation before and after the requested change is as follows:

<i>Current</i>		<i>Proposed</i>	
Eleanor White	76%	Jeffrey White	55%
Frederick White	24%	Frederick White	45%

Jeffrey and Frederick White are the two sons of Eleanor White. The real estate will remain with Jericho Turnpike Realty Co. Inc., which is owned by Jeffrey White (50%) and Mia White (50%).

Jeffrey White presently has a 51% ownership interest in White Oaks Nursing Home, a 200-bed RHCF, located in Woodbury.

DOH Recommendation
Contingent approval.

Need Summary

There has been a slight decrease in utilization from 96.4% in 2007 to 91.6% in 2009.

<i>RHCF Need – Long Island</i>	
2016 Projected Need	16,962
Current Beds	14,429
Beds Under Construction	478
Total Resources	14,907
Unmet Need	2,055

There will be no change in beds or services upon approval.

Program Summary

No information has been received that would result in a negative finding regarding the character and competence of Jeffrey White.

The review of operations of White Oaks Nursing Home results in a conclusion of a substantially consistent high level of care, since there were no enforcements to date.

Financial Summary

There are no project costs associated with this application. The partnership interest will be purchased for \$241,000 with \$24,100 down payment upon execution of agreement, and the remaining \$216,900 payable in seventy-two equal monthly installments at 7% interest after the closing.

Budget:	<i>Revenues:</i>	\$ 13,033,600
	<i>Expenses:</i>	<u>12,854,164</u>
	<i>Gain/(Loss):</i>	\$ 179,436

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of a plan to enhance access to Medicaid residents. At a minimum, the plan shall include, but not necessarily limited to, ways in which the facility will:
 - a) Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
 - b) Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
 - c) Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy; and
 - d) Submit an annual report for two years to the Department of Health, which demonstrates substantial progress with the implement of the plan. The plan should include but not be limited to:
 - Information on activities relating to a-c above; and
 - Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
 - Other factors as determined by the applicant to be pertinent.

The Department reserves the right to require continued reporting beyond the two year period. [RNR]

3. Submission of updated budgets, with all assumptions noted, that include the impact of the State's 2011-12 Budget and continue to demonstrate financial feasibility, acceptable to the Department of Health. [BFA]

Council Action Date

June 16, 2011.

Need Analysis

Background

Woodbury Center for Health Care is an existing Article 28 RHCf and has utilization above that of Nassau County for 2007 and 2008, but fell below in 2009 as shown in the table below:

<i>RHCf Occupancy</i>	<u>2007</u>	<u>2008</u>	<u>2009*</u>
Woodbury Center for Health Care	96.4%	96.2%	91.6%
Nassau County	94.3%	94.8%	93.4%

**Data for 2009 may be incomplete*

At the end of January 2009, the facility's case mix index was 1.22 for 117 residents of whom 4 were Physical A's and 3 were Physical B.

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, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

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

Woodbury Center for Health Care was above the 75% planning average for 2007, but fell short in 2008. The facility reported Medicaid admissions of 25.8% and 12.8% in 2007 and 2008, respectively. The 75% planning averages for Nassau County for these years were 15.2% (2007) and 13.5% (2008).

Recommendation:

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Background

	<i>Current</i>	<i>Proposed</i>
<i>Facility Name</i>	Woodbury Center for Healthcare	same
<i>Address</i>	8533 Jericho Turnpike Woodbury, NY 11797	same
<i>RHCf Capacity</i>	88	same
<i>ADHC Program Capacity</i>	0	same
<i>Type of Operator</i>	Partnership	same
<i>Class of Operator</i>	Proprietary	same
<i>Operator</i>	Woodbury Center for Health Care	same
	<u>Existing Partnership*</u>	<u>Proposed Partnership</u>
	Eleanor White 75%	Jeffrey H. White 55%
	Frederick E. White 25%	Frederick E. White 45%

Character and Competence

• FACILITIES REVIEWED:

White Oaks Nursing Home RHCF 1/1/2001 to present

• INDIVIDUAL BACKGROUND REVIEW:

Jeffrey White is the Executive Director of White Oaks Nursing Home, a 200-bed nursing home also located in Woodbury. Mr. White is a licensed nursing home administrator whose license has been placed on inactive status. Mr. White holds a 51% partnership interest in White Oaks Nursing Home. Mr. White was convicted of accepting a vendor kickback, a misdemeanor, in 1977.

Frederick White, an existing partner, is not subject to character and competence review, consistent with PHL Section 2801-a(4)(b). Mr. White was convicted of attempted grand larceny second degree, a class E felony, for failure to report personal rebates from vendors and attempt to evade tax, a misdemeanor, in March 1978. Mr. White serves as the administrator of record at Woodbury Nursing Home.

Character and Competence – Analysis:

No information has been received which would result in a negative finding regarding the character and competence of Jeffrey White.

The review of operations of White Oaks Nursing Home results in a conclusion of a substantially consistent high level of care, since there were no enforcements to date.

Project Review

There are no proposed changes in either the program or physical environment of the facility. No administrative services agreement is proposed in the application.

Project Review – Analysis:

There are no proposed changes in either the program or physical environment of the facility.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Background

The change in operational ownership will be effectuated in accordance with an executed partnership interest purchase agreement, the terms of which are summarized below:

<i>Date:</i>	April 19, 2007
<i>Seller:</i>	Eleanor White
<i>Buyer:</i>	Frederick White and Jeffrey White
<i>Purchase:</i>	All of the seller's right, title and interest of any kind.
<i>Purchase Price:</i>	\$241,000 with \$24,100 down payment upon execution of agreement and the remaining \$216,900 payable in seventy-two equal monthly installments at 7% interest after the closing.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding 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.

Operating Budget

Following is a summary of the submitted operating budget for the RHCF, presented in 2010 dollars, for the first year subsequent to change in ownership:

	<u>First Year</u>
Revenues:	
Medicaid	\$7,253,900
Medicare	3,016,400
Private Pay/Other	2,672,400
Other Revenues*	<u>90,900</u>
Total Revenues	\$13,033,600
Expenses:	
Operating	\$12,417,064
Capital	<u>437,100</u>
Total Expenses	\$12,854,164
Net Income (Loss)	\$179,436
Utilization:(patient days)	41,114
Occupancy	91.6%

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

- Medicare and private pay revenues are based on current payment rates.
- * Other income mainly consists of purchase discounts and telephone revenues.
- Overall utilization for year one is projected at 91.6%, while utilization by payor source is expected as follows:

	<u>Years One & Three</u>
Medicare	13.14%
Medicaid	68.46%
Private Pay	18.40%

- Breakeven occupancy for the first and third years is projected at 90.3%.

Capability and Feasibility

There are no project costs associated with this application.

The applicant has satisfied \$24,100 of the purchase price from proposed member's equity and will pay the remaining \$216,900 payable in seventy-two equal monthly installments at 7% interest after the closing.

Working capital requirements are estimated at \$2,142,360 based on two months of the first year expenses, and will be satisfied from the facility's existing cash and receivables, and additional members' equity. Net cash and receivables (minus accounts payable) were \$1,600,001 at September 30, 2010, resulting in a need for additional equity of \$542,360 from the proposed members. Presented as BFA Attachment A, is the Net Worth of proposed members, which reveals sufficient resources to satisfy the working capital requirements.

BFA Attachment B presents the pro forma balance sheet of Woodbury Center for Health Care. As shown, the facility will initiate operation with \$488,000 members' equity.

The submitted budget indicates that a net income of \$179,436 would be generated during the first year following change in ownership.

Review of BFA Attachment C, financial summary of Woodbury Center for Health Care, indicates that the facility has maintained positive working capital and equity positions, and experienced a net loss of \$135,909 for 2009, and an approximate break-even from operations in 2007-2008.

The facility experienced an average annual occupancy of 94.6% during 2007 to 2009. The 2009 operating loss is due to a lower overall utilization and a shift in the payor mix. Upon transfer of ownership in the operation, management has plans in place to update and renovate the facility in order to compete within their geographic location.

Review of BFA Attachment D, financial summary of White Oaks Nursing Home indicate that the facility has maintained positive working capital for 2008-2009, positive equity positions for 2007-2009, and has generated average net income of \$740,683 for the period shown. The negative 2007 working capital position is due to third party retroactive adjustments.

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth of Proposed Members
BFA Attachment B	Pro Forma Balance Sheet, Woodbury Center for Health Care
BFA Attachment C	Financial Summary, Woodbury Center for Health Care
BFA Attachment D	Financial Summary, White Oaks Nursing Home
BFA Attachment E	Establishment Checklist



Public Health and Health Planning Council

Project # 092056-E
White Plains Center for Nursing Care, LLC

County: Westchester (White Plains)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: September 1, 2009

Executive Summary

Description

White Plains Center for Nursing Care, LLC d/b/a White Plains Center for Nursing Care, an 88-bed proprietary residential health care facility (RHCF) located at 220 West Post Road, White Plains, requests approval for a change in 23% of the facility's ownership. The ownership of the facility before and after the proposed transaction is as follows:

<u>Current</u>		<u>Proposed</u>	
Ruth Hirsch	25.0%	Ruth Hirsch	25.0%
Deborah Philipson	30.0%	Esther Farkovitz	12.0%
Agnes Arnstein	10.0%	Deborah Philipson	12.0%
Anthony Bacchi, MD	10.0%	Agnes Arnstein	10.0%
Martin Farbenblum	10.0%	Anthony Bacchi, MD	10.0%
Anne Gottlieb	10.0%	Martin Farbenblum	10.0%
Nat Sherman	5.0%	Anne Gottlieb	5.0%
		Nat Sherman	5.0%
		Moshe Sirkis	4.0%
		Motel Sirkis	3.0%
		Yosef Kaufman	1.5%
		Alan Chopp	1.0%
		Mayer Fischl	1.0%
		David Dachs	0.5%

** The Berger Commission recommended closure of 387 beds in Westchester County. This chart reflects a reduction of 540 beds (all 321 beds at Taylor Care Center and 219 beds at Guild Home for Aged Blind).*

Program Summary

There will be no change in the number of beds or services. No negative information has been received concerning the character and competence of the applicants.

Financial Summary

There are no project costs associated with this proposal. The purchase price for 23% ownership interest in the Nursing home is \$874,000. The payment has already been made and is being held in an escrow account by the facility until such time as the CON is approved.

Budget:	Revenues:	\$ 9,461,180
	Expenses:	<u>9,344,005</u>
	Gain/(Loss):	\$ 117,175

DOH Recommendation
Contingent approval.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Need Summary

This application seeks addition of new members and the reduction in economic interests of two members. Occupancy at White Plains Center increased by 3.26% between 2006 and 2008.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

<u>RHCF Need – Westchester County</u>	
2016 Projected Need	6,716
Current Beds	6,576*
Beds Under Construction	237
Total Resources	6,813
Unmet Need	- 97

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The 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 patients in the area awaiting placement, the facility's total Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of a photocopy of the original, dated Operating Agreement indicating as members only those persons established by the Public Health Council (PHC), pursuant to CON application number 011172-E, and executed by each such established member, which must be acceptable to the Department. [CSL]
3. Submission of photocopies of documents related to the submission, and approval by the Department, of a 90-day notice in 2008, pursuant to which Helen Webster and Chava Webster voluntarily withdrew from the facility as members, which must be acceptable to the Department. [CSL]
4. A detailed explanation, acceptable to the Department, as to why Esther Farvowitz, Moshe Sirkis, Motel Sirkis, Yoseph Kaufman, Alan Chopp, Mayer Fisch and David Dacks, who were not originally established as members of the facility, signed the Operating Agreement as members and were listed on the schedule of members with a membership percentage. [CSL]
5. Submission of photocopies of purchase and sale agreements for each of the new members, which must be acceptable to the Department. [CSL]
6. Submission of documentation pursuant to which Judy Landa assigned her rights to purchase a 12 percent membership interest in the facility to Esther Farvowitz, including the consent of the facility manager(s), which must be acceptable to the Department. [CSL]
7. Submission of documentation pursuant to which Esther Farvowitz agrees to be bound by the terms and conditions of the Operating Agreement, which must be acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

White Plains Center for Nursing Care, LLC is certified for 88 residential health care facility beds with RHCF baseline services and Clinical Laboratory and Diagnostic Radiology.

This application proposes the addition of seven new members to the LLC for a total of 23.0% ownership. Additionally, two existing members are decreasing their economic interest percentages. This change in ownership is due to some members wishing to withdraw from the limited liability company.

The Commission on Health Care Facilities in the 21st. Century made specific recommendations relative to certain nursing facilities in Westchester County:

- Decertification of 247 RHCF beds at Andrus-on-Hudson;
- Decertification of 140 beds at Taylor Care Center; and
- Closure, downsizing or conversion of Skyview Rehabilitation Center's 192 RHCF beds, contingent upon the determination of the Commissioner of Health.

Since those recommendations were made by the Commission, the following actions have taken place:

- The closure of beds at Andrus-on-Hudson was challenged in court and was not upheld.
- Taylor Care Center closed all 321 beds; and
- The Commissioner of Health determined that the recommendations relating to Skyview Rehabilitation and Health Care Center were not warranted.

In addition to the foregoing, The Guild Home for Aged Blind closed its 219-bed facility in 2008. With the decertification of all 321 beds of the Taylor Care Center, this resulted in the closure of 540 beds in Westchester County.

Analysis

Utilization at White Plains Center showed an increase of over three percentage points from 2006 to 2008 going from 93.62 percent to 96.88 percent. Westchester County showed an increase of 2.49 percent over the same period.

<u>RHCF Utilization</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
White Plains Center for Nursing Care	93.62%	93.70%	96.88%
Westchester County	90.68%	92.60%	93.17%

The facility's Case Mix Index (CMI) at the end of January 2009 was 1.1563; of 82 residents, 6 were Physical A's and 6 Physical B's.

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 75% of the Health Systems Agency area percentage of Medicaid admissions, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

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

White Plains Center achieved and surpassed the 75 percent County Planning Average during the years under consideration as seen below:

White Plain's Medicaid Admissions:

2006 – 64.84%
 2007 – 53.89%
 2008 – 41.18%

Westchester County's 75 percent Planning Average:

2006 – 27.55%
 2007 – 27.84%
 2008 – 25.48%

Recommendation

From a need perspective, contingent is recommended.

<h2 style="margin: 0;">Programmatic Analysis</h2>

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	White Plains Center for Nursing Care, LLC	Same
<i>Address</i>	220 West Post Road White Plains, NY 10606	Same
<i>RHCF Capacity</i>	88	Same
<i>ADHC Capacity</i>	0	Same
<i>Type of Operator</i>	Limited Liability Company	Same
<i>Class of Operator</i>	Proprietary	Same
<i>Operator</i>	White Plains Center for Nursing Care, LLC	Same
	<u>Existing Members</u> -- Ruth Hirsch (25.0%) -- Deborah Philipson (30.0%) -- Agnes Amstein (10.0%) -- Anthony Bacchi, MD (10.0%) -- Martin Farbenblum (10.0%) -- Anne Gottlieb (10.0%) -- Nat Sherman (5.0%)	<u>Continuing Members</u> -- Ruth Hirsch (25.0%) -- Deborah Philipson (12.0%) -- Agnes Amstein (10.0%) -- Anthony Bacchi, MD (10.0%) -- Martin Farbenblum (10.0%) -- Anne Gottlieb (5.0%) -- Nat Sherman (5.0%) <u>New Members</u> -- Esther Farkovitz (12.0%) -- Moshe Sirkis (4.0%) -- Motel Sirkis (3.0%) -- Yosef Kaufman (1.5%) -- Alan Chopp (1.0%) -- Mayer Fischl (1.0%) -- David Dachs (0.5%)

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Nassau Extended Care Facility	7/2004 to present
Park Avenue Extended Care Facility	7/2004 to present
Throgs Neck Extended Care Facility	7/2004 to present
Townhouse Extended Care Facility	7/2004 to present
Avalon Gardens Rehabilitation and Health Care Center	5/2003 to present
Bayview Nursing and Rehabilitation Center	4/2003 to present
Brookhaven Rehabilitation and Health Care Center	4/2001 to present
Eastchester Rehabilitation and Health Care Center	9/2002 to present
Split Rock Rehabilitation and Health Care Center	9/2002 to present
West Lawrence Care Center	9/2003 to present
Woodmere Rehabilitation and Health Care Center	1/2001 to present
Golden Gate Rehabilitation and Health Care Center	1/2001 to 12/2001
Northwoods Rehabilitation and Health Care Center-Cortland	11/2008 to 8/2010
Northwoods Rehabilitation and Health Care Center-Hilltop	11/2008 to 8/2010
Northwoods Rehabilitation and Health Care Center-Rosewood	11/2008 to 8/2010
Northwoods Rehabilitation and Health Care Center-Troy	11/2008 to 8/2010

- INDIVIDUAL BACKGROUND REVIEW:

Esther Farkowitz is not employed at the current time. She previously worked as a yoga instructor for Lucille Roberts. Ms. Farkowitz discloses the following ownership interests:

Nassau Extended Care Center	7/2004 to present
Park Avenue Extended Care Center	7/2004 to present
Throgs Neck Extended Care Facility	7/2004 to present
Townhouse Extended Care Facility	7/2004 to present

Ms. Farkowitz also owns EF Consulting, LLC, which was the court appointed receiver for the following facilities from November 3, 2008 to August 30, 2010:

- Northwoods Rehabilitation and Health Care Center-Cortland
- Northwoods Rehabilitation and Health Care Center-Hilltop
- Northwoods Rehabilitation and Health Care Center-Rosewood
- Northwoods Rehabilitation and Health Care Center-Troy

Moshe Sirkis is the president of Sirmo Services, a brokerage firm located in Brooklyn. Mr. Sirkis discloses the following health facility ownership interests:

Nassau Extended Care Center	7/2004 to present
Park Avenue Extended Care Center	7/2004 to present
Throgs Neck Extended Care Facility	7/2004 to present
Townhouse Extended Care Facility	7/2004 to present

Motel Sirkis has been retired since 1985. Mr. Sirkis indicates he holds no ownership interests in health facilities.

Yosef Kaufman is employed as the controller for Esplanade White Plains, a rental real estate company located in White Plains. Mr. Kaufman is also the controller at Esplanade Hilltop, a hotel located in White Plains. Mr. Kaufman indicates he holds no ownership interests in health facilities.

Alan Chopp is a licensed nursing home administrator in good standing in the States of New York, New Jersey and New Hampshire. Mr. Chopp is employed as the Compliance/HIPAA/Risk Management Officer for Sentosa Care LLC. Mr. Chopp was previously employed as the administrator of record and held an ownership interest at Golden Gate

Rehabilitation and Health Care Center from 1974 to 2001. Mr. Chopp has held several interim administrator positions including Bayview Nursing and Rehab Center from May 29 2003 to July 1, 2003, West Lawrence Care Center from November 24, 2003 to February 2, 2004 and Franklin Center for Rehabilitation and Nursing from December 15, 2008 to January 26, 2009.

Mr. Chopp discloses he currently holds the following ownership interests:

Avalon Gardens Rehabilitation and Health Care Center	1.0% interest	5/2003 to present
Bayview Nursing and Rehabilitation Center	1.0% interest	4/2003 to present

Mayer Fischl is currently employed as the controller at Woodmere Rehabilitation and Health Care Center. Mr. Fischl has significant healthcare facility ownership interests, as follows:

Bayview Nursing and Rehabilitation Center	4/2003 to present
Brookhaven Rehabilitation Center	4/2001 to present
Eastchester Rehabilitation and Health Care Center	9/2002 to present
Nassau Extended Care Center	7/2004 to present
Park Avenue Extended Care Center	7/2004 to present
Split Rock Rehabilitation and Health Care Center	9/2002 to present
Throgs Neck Extended Care Center	7/2004 to present
Townhouse Extended Care Center	7/2004 to present
West Lawrence Care Center	9/2003 to present
Woodmere Rehabilitation and Health Care Center	9/1996 to present

David Dachs is a Certified Public Accountant with license in good standing, and is currently employed as the controller at Golden Gate Rehabilitation and Health Care Center. Mr. Dachs indicates he holds no health care facility interests.

Character and Competence – Analysis:

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

A review of the operations of Park Avenue Extended Care Facility, Throgs Neck Extended Care Facility, West Lawrence Care Center and Woodmere Rehabilitation and Health Care Center for the periods indicated results in a conclusion that a substantially consistent high level of care has been provided, since there were no enforcements.

A review of the operations of Nassau Extended Care Center for the period reveals that the facility was fined \$20,000 pursuant to a Stipulation and Order issued March 25, 2004 for surveillance findings on July 25, 2001. Deficiencies were found under 10 NYCRR 415.12 Quality of Care.

The review of operations of Nassau Extended Care Center results in a conclusion of a substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of Townhouse Extended Care Center for the period reveals that the facility was fined \$2,000 pursuant to a Stipulation and Order issued March 25, 2004 for surveillance findings on August 31, 2004. Deficiencies were found under 10 NYCRR 415.2 Quality of Care and 415.12(c) Quality of Care: Pressure Sores.

The review of operations of Townhouse Extended Care Center results in a conclusion of a substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of Avalon Gardens Rehabilitation and Health Care Center for the period reveals that the facility was fined \$2,000 pursuant to a Stipulation and Order issued April 21, 2009 for surveillance findings on May 23, 2008. Deficiencies were found under 10 NYCRR 415(h) (1) & (2).12 Quality of Care: Accidents.

The review of operations of Avalon Gardens Rehabilitation and Health Care Center results in a conclusion of a substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of Bayview Nursing and Rehabilitation Center for the period reveals that the facility was fined \$7,000 pursuant to a Stipulation and Order issued September 29, 2005 for surveillance findings on

November 16, 2004. Deficiencies were found under 10 NYCRR 415.5(h)(2) Quality of Life: Environment, 415.12 Quality of Care, 415.12(c)(1) Quality of Care: Pressure Sores and 415.12(h)(2) Quality of Care: Accidents. The facility was also fined \$2000 pursuant to a Stipulation and Order issued June 13, 2007 for surveillance findings on December 2, 2005. Deficiencies were found under 10 NYCRR 415.11(c)(3) Comprehensive Care Plans. Bayview Nursing and Rehabilitation Center incurred a \$74,658.64 Civil Monetary Penalty for the period of November 16, 2004 to January 9, 2005, and was issued Denial of Payment for New Admissions for the period of November 24, 2004 to January 10, 2005.

The review of operations of Bayview Nursing and Rehabilitation Center results in a conclusion of a substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of Brookhaven Rehabilitation and Health Care Center, LLC for the noted period reveals that the facility was fined \$2000 pursuant to a Stipulation and Order on April 3, 2009 for surveillance findings on April 25, 2008. Deficiencies were found under 415.12 Accidents. Brookhaven Rehabilitation and Health Care Center, LLC incurred a \$28,925 Civil Monetary Penalty for the period of November 10, 2006 to November 26, 2006, and was issued Denial of Payment for New Admissions for the period of November 18, 2006 to November 26, 2006.

The review of operations of Brookhaven Rehabilitation and Health Care Center, LLC results in a conclusion of substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of Eastchester Rehabilitation and Health Care Center for the period reveals that the facility was fined \$2,000 pursuant to a Stipulation and Order issued August 9, 2008 for surveillance findings on January 15, 2008. Deficiencies were found under 10 NYCRR 415.4(b)(1)(ii) Resident Behavior and Facility Practices: Staff Treatment of Residents.

The review of operations of Eastchester Rehabilitation and Health Care Center results in a conclusion of a substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of Split Rock Rehabilitation and Health Care Center for the period reveals that the facility was fined \$6,000 pursuant to a Stipulation and Order issued March 19, 2007 for surveillance findings on December 5, 2005. Deficiencies were found under 10 NYCRR 415.4(b) Resident Behavior and Facility Practices: Staff Treatment of Residents, 415.11(c) Resident Assessment and Care Planning: Comprehensive Care Plans and 415.12(k)(6) Quality of Care: Special Needs. Split Rock Rehabilitation and Health Care Center incurred a \$112,521.71 Civil Monetary Penalty for the period of November 25, 2005 to December 26, 2005, and was issued Denial of Payment for New Admissions for the period of December 10, 2005 to February 20, 2006.

The review of operations of Split Rock Rehabilitation and Health Care Center results in a conclusion of a substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of Northwoods Rehabilitation and Health Care Center-Cortland and Northwoods Rehabilitation and Health Care Center-Rosewood for the periods indicated results in a conclusion that a substantially consistent high level of care has been provided, since there were no enforcements.

A review of the operations of Northwoods Rehabilitation and Health Care Center-Hilltop for the period reveals that the facility was fined \$8,000 pursuant to a Stipulation and Order issued October 27, 2010 for surveillance findings on July 1, 2009. Deficiencies were found under 10 NYCRR 415.12 Quality of Care, 415.26 Organization and Administration, 415.26 (b)(3) Governing Body and 415.27 Quality Assessment and Assurance. Northwoods Rehabilitation and Health Care Center-Hilltop incurred a \$55,120.34 Civil Monetary Penalty for the period of June 26, 2009 to July 22, 2009.

The review of operations of Northwoods Rehabilitation and Health Care Center-Hilltop results in a conclusion of a substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of Northwoods Rehabilitation and Health Care Center-Troy for the period reveals that the facility was fined \$6,000 pursuant to a Stipulation and Order issued October 28, 2009 for surveillance findings on January 16, 2009. Deficiencies were found under 10 NYCRR 415.12 Quality of Care, 415.26 Organization and Administration, 415.26 (b)(3) Governing Body and 415.27 Quality Assessment and Assurance. Northwoods Rehabilitation and Health Care Center-Troy incurred a \$62,181.40 Civil Monetary Penalty for the period of

January 13, 2009 to February 10, 2009. Northwoods Rehabilitation and Health Care Center-Troy also incurred a \$144,422.46 Civil Monetary Penalty for the period of July 15, 2009 to August 24, 2009, and was issued Denial of Payment for New Admissions for the period of July 22, 2009 to August 24, 2009.

The review of operations of Northwoods Rehabilitation and Health Care Center-Troy results in a conclusion of a substantially consistent high level of care, since there were no repeat enforcements.

Project Review

Project Review – Analysis:

There are no proposed changes in either the program or physical environment of the facility. No administrative services agreement is proposed in the application.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Background

The change in the membership percentage would diversify ownership of the facility. There will be no programmatic changes made as a result of the transfers.

BFA Packet A presents a summary net worth statement of the proposed new members and the members increasing their membership percentages. Several of the proposed new members and current members increasing their ownership have ownership interest in additional RHCF facilities; their financial summaries are presented as attachments in BFA Attachments C through N.

Presented as BFA Attachments C through N are the financial summaries as follows: Avalon Gardens Rehabilitation and Health Care Center, Brookhaven Rehab and Health Care Center, Eastchester Rehab and Health Care Center, Woodmere Rehab and Health Care Center , Golden Gate Rehab and Health Care Center, Nassau Extended Care Facility , Bayview Nursing and Rehab, West Lawrence Care Center, Split Rock Rehabilitation and Health Care Center, Park Avenue Extended Care Facility, Throgs Neck Extended Care Facility and Townhouse Extended Care Facility . BFA Attachment B presents the Financial Summary for White Plains Center for Nursing Care, LLC. d/b/a White Plains Center for Nursing Care.

Membership Purchase Agreement

The applicant has submitted an executed membership purchase agreement for the change of 23% membership interest of White Plains Center for Nursing LLC, d/b/a White Plains Center for Nursing, the terms of which are summarized below:

- Purpose:* The sale of 23% membership interests of White Plains Center for Nursing LLC, d/b/a White Plains Center for Nursing
- Sellers:* Deborah Philipson (18%) and Anne Gottlieb (5%)
- Purchasers:* Esther Farkovitz (12%), Moshe Sirkis (4%), Motel Sirkis (3%), Yosef Kaufman (1.5%), Alan Chopp (1%), Mayer Fischl (1%) and David Dachs (.5%)
- Purchase Price:* \$874,000 (\$38,000 per membership percentage)
- Payment of Purchase Price:* The full payment has already been made to the facility and is being held in escrow by facility until such time as the CON is approved. Upon approval the monies will be distributed to the sellers.

Capability and Feasibility

The issue of capability centers on the applicant's ability to meet the purchase price for their respective ownership percentages. Presented as BFA Attachment A is the summary net worth statement for the proposed members.

Several of the current members and the proposed members have provided affidavits that state they will cover any of the members unmet equity requirements.

The issue of feasibility is centered on the applicant's ability to offset expenses with revenue and maintain a viable operating entity. The submitted budget indicated an excess of revenues over expenses of \$117,175 during the first and third years of operation.

As shown on BFA Attachment B, White Plains had average negative working capital and net asset positions, and generated an average net loss of \$454,040 during the period 2006 through 2009. The loss was caused by the facility not receiving their rebased rates for several years after the change in ownership took place in October 2004. The facility started receiving the rebased rate in 2008, significantly reducing the net loss, but they are still waiting for a positive PRI adjustment in order to be operating profitably. In 2009, the facility finally received a positive PRI and as of May 2009, the facility started profitable operations, as can be seen on the financial summary, which shows a net income of \$789,852.

As shown on BFA Attachment C, Avalon Gardens Rehabilitation Center had an average negative working capital position and an average positive net asset position, and generated an average net income of \$609,868 during the period 2006 through 2009. In 2006, the facility generated a net loss of \$1,293,889. This was due to the level of resident acuity. Many of the residents had multiple wounds upon intake, which raised the cost of caring for these residents. In order to adjust or address the losses, the facility had to reduce costs. They implemented a cost reduction program, and new residents exhibiting issues, such as multiple wounds, were addressed at intake. Therefore, the new residents were of a lower acuity and they had a lower level of expense for their care.

As shown on BFA Attachment D, Brookhaven Rehab and Health Care Center had an average negative working capital position and an average positive net asset position, and generated an average net income of \$1,783,843 during the period 2006 through 2009.

As shown on BFA Attachment E, Eastchester Rehab and Health Care Center had an average negative working capital position and an average positive net asset position, and generated an average net income of \$963,062 during the period 2006 through 2009.

As shown on BFA Attachment F, Woodmere Rehab and Health Care Center had an average positive working capital position and net asset positions, and generated an average net income of \$1,252,292 during the period 2006 through 2009. In 2006, loss of \$1,055,883 was caused by the facility paying a management fee to the partners of \$1,225,000; prior to the payment, the facility had a net income of \$169,117. This was a one-time occurrence.

As shown on BFA Attachment G, Golden Gate Rehab and Health Care Center had an average negative working capital position and an average positive net asset position, and generated an average net income of \$381,428 during the period 2006 through 2009. The 2006 loss of \$57,625 is due to the payment of administrative consultant fees paid to the operators, which were treated as expenses. Without the payment, the facility would have generated a net income. This was a one-time occurrence.

As shown on BFA Attachment H, Nassau Extended Care Facility had average positive working capital and net asset positions, and generated an average net income of \$1,651,214 during the period 2006 through 2009.

As shown on BFA Attachment I, Bayview Nursing and Rehabilitation Center had an average negative working capital position and an average positive net asset position, and generated an average net income of \$582,325 during the period 2006 through 2009.

As shown on BFA Attachment J, West Lawrence Care Center had an average negative working capital position and an average positive net asset position, and generated an average net income of \$2,023,809 during the period 2006 through 2009.

As shown on BFA Attachment K, Split Rock Rehabilitation and Health Care Center had an average negative working capital position and an average positive net asset position, and generated an average net income of \$190,371 during the period 2006 through 2008. The losses in 2006 and 2007 were caused by issues with resident acuity; many of the residents had multiple wounds upon intake, which raised the cost of caring for these residents. The facility has implemented a cost reduction program in which new residents who are exhibiting issues such as multiple wounds, are

now addressed at intake, which allows for lower acuity admissions, thus reducing the level of expense for their care. As of 7/30/2008, none of the owners or proposed owners of White Plains had ownership interest in the facility.

As shown on BFA Attachment L, Park Avenue Extended Care Facility had an average positive working capital and an average positive net asset position, and generated an average net income of \$1,362,632 during the period 2006 through 2009.

As shown on BFA Attachment M, Throgs Neck Extended Care Facility had an average negative working capital position and an average positive net asset position, and generated an average net income of \$610,905 during the period 2006 through 2009.

As shown on BFA Attachment N, Townhouse Extended Care Facility had an average negative working capital position and an average positive net asset position, and generated an average net income of 409,333 during the period 2006 through 2009. The 2008 loss was caused by a prior period liability being accrued in 2008; the accrual was for 1,054,509 for a Medicaid overpayment. This is a one time occurrence and without the accrual the facility would have had positive income for the year.

Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Net Worth Proposed Members
BFA Attachment B	Financial Summary- White Plains Center for Nursing Care, LLC d/b/a White Plains Center for Nursing Care
BFA Attachment C	Financial Summary- Avalon Gardens Rehabilitation and Health Care Center
BFA Attachment D	Financial Summary- Brookhaven Rehab and Health Care Center
BFA Attachment E	Financial Summary- Eastchester Rehab and Health Care Center
BFA Attachment F	Financial Summary- Woodmere Rehab and Health Care Center
BFA Attachment G	Financial Summary- Golden Gate Rehab and Health Care Center
BFA Attachment H	Financial Summary- Nassau Extended Care Center
BFA Attachment I	Financial Summary- Bayview Nursing and Rehab
BFA Attachment J	Financial Summary- West Lawrence Care Center
BFA Attachment K	Financial Summary- Split Rock Rehabilitation and Health Care Center
BFA Attachment L	Financial Summary- Park Avenue Extended Care Center
BFA Attachment M	Financial Summary- Throgs Neck Extended Care Center
BFA Attachment N	Financial Summary – Townhouse Extended Care Facility
BFA Attachment O	Establishment Checklist- White Plains Center for Nursing Care, LLC d/b/a White Plains Center for Nursing Care



Public Health and Health Planning Council

Project # 092156-E

Sprain Brook Manor Rehab, LLC
d/b/a Sprain Brook Manor Nursing Home

County: Westchester (Scarsdale)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: November 27, 2009

Executive Summary

Description

Sprain Brook Manor Rehab, LLC seeks approval to become the new operator of Sprain Brook Manor Nursing Home, LLC d/b/a Sprain Brook Manor Nursing Home, a 121-bed proprietary residential health care facility (RHCF), located at 77 Jackson Avenue, Scarsdale. Following approval of this change, Sprain Brook Manor Rehab, LLC, will do business as Sprain Brook Manor Nursing Home, thus retaining the current business name for the facility.

The real estate ownership will not change. The real estate is owned by Sprain Brook Holding Corp., with sole shareholder being L.J. Severino, MD. The current operator will assign their interests in the existing lease agreement.

Sprain Brook Manor Nursing Home, LLC entered into a purchase agreement on August 18, 2009 with LNS Acquisition, LLC to sell the operating interests of Sprain Brook Manor Nursing Home. LNS Acquisition, LLC has entered into an assignment agreement with Sprain Brook Manor Rehab, LLC, assigning all rights, title and interest to Sprain Brook Manor Rehab, LLC.

Ownership of the operation of Sprain Brook Manor Nursing Home before and after the requested change is as follows:

<u>Current</u>	<u>Proposed</u>
Sprain Brook Manor Nursing Home, LLC	Sprain Brook Manor Rehab, LLC
MEMBERS:	MEMBERS:
-- Robert Klein (50%)	-- Lazar Strulovitch (58.621%)
-- Estate of Henry Book (50%)	-- Allen Stein (27.586%)
	-- Leo. Schwimmer (13.793%)

DOH Recommendation
Contingent approval.

Need Summary

Occupancy at Sprain Brook Manor increased by 19.72% from 2006 to 2010, going from 68.96% to 88.68%. The facility projects 90% occupancy the first year after the change of ownership.

<u>RHCF Need – Westchester County</u>	
2016 Projected Need	6,716
Current Beds	6,576*
Beds Under Construction	237
Total Resources	6,813
Unmet Need	- 97

** The Berger Commission recommended closure of 387 beds in Westchester County. This chart reflects a reduction of 540 beds (all 321 beds at Taylor Care Center and 219 beds at Guild Home for Aged Blind).*

Program Summary

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

Financial Summary

The purchase price for operations will be \$7,800,000, and will be met with equity of \$3,500,000 and a bank loan of \$4,300,000.

Budget:	<i>Revenues:</i>	\$ 11,048,367
	<i>Expenses:</i>	<u>10,282,350</u>
	<i>Gain/(Loss):</i>	\$ 766,017

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The 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 patients in the area awaiting placement, the facility's total Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of a plan to enhance access to Medicaid residents. At a minimum, the plan shall include, but not necessarily be limited to ways in which the facility will:
 - a) Reach out to hospital discharge planners and make them aware of the facility's Medicaid Access Program;
 - b) Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
 - c) Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy; and
 - d) Submit an annual report for two years to the Department of Health which demonstrates progress with the implementation of the plan. The report should include, but not be limited to:
 - Information on activities relating to (a)-(c) above;
 - Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
 - Other factors as determined by the applicant to be pertinent.

The Department reserves the right to require continued reporting beyond the two-year period. [RNR]

3. Submission of a bank loan commitment that is acceptable to the Department. [BFA]
4. Submission of a working capital loan commitment that is acceptable to the Department. [BFA]
5. Submission of updated budgets, with all assumptions noted, that include the impact of the State's 2011-2012 Budget and continues to demonstrate financial feasibility, acceptable to the Department of Health. [BFA]
6. Submission of a lease assignment acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Sprain Brook Manor Nursing Home, LLC, d/b/a Sprain Brook Manor Nursing Home, is a 121-bed residential health care facility located at 77 Jackson Avenue, Scarsdale. The facility is certified for RHCf baseline services, as well as diagnostic radiology. It is located in Westchester County.

Public Need Criteria

The RHCf bed need methodology set forth in 10 NYCRR Section 709.3 shows the need for a modest number of additional beds in Westchester County:

<u>County RHCf Bed Need</u>	<u>Projected Need – 2016</u>	<u>Current Beds</u>	<u>Beds Under Construction</u>	<u>Total Resources</u>	<u>Unmet Need</u>
Westchester	6,716	6,576 ¹	237	6,813	97

Analysis

Utilization at Sprain Brook Manor showed an increase of 8.94% between 2006 and 2009. Westchester County showed a miniscule increase of 1.2% over the same period. Using unaudited figures for 2010, the applicant reports an occupancy rate of 88.68% for that year, which shows a continued steady increase.

<u>RHCf Utilization</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Sprain Brook Manor Nursing	68.96	72.92	77.90	84.24	88.68 ²
Westchester County	90.68	92.60	93.17	91.8	NA

There are ten nursing homes in a radius of three to five miles around Sprain Brook Manor. The 2008-2009 utilization at these facilities is shown below:

<u>Regional Facility Occupancy</u>	<u>2008</u>	<u>2009</u>
Andrus-on-Hudson	97.82%	97.80%
Michael Malotz Skilled Nursing Home for the Aged Blind	90.94%	92.00%
San Souci Rehabilitation	93.18%	97.50%
Regency Extended Care Center	97.51%	97.07%
St. Cabrini Nursing Home	97.13%	98.54%
White Plains Center for Nursing	96.88%	95.82%
Schnurmacher Center for Rehabilitation	96.52%	96.15%
Nathan Miller Center for Nursing	95.31%	95.47%
St. Joseph's Hospital Nursing Home	97.04%	95.30%
The Wartburg	96.05%	96.83%

The data show that in 2009, the average occupancy of all facilities in the 3-5 mile radius of Sprain Brook was 96.25%.

The applicant projects a 90% occupancy in the first year after approval of the requested change of ownership. As noted, the applicant reports an occupancy rate of 88.68% for the year 2010. However, the applicant notes that the facility was maintaining an occupancy rate of over 90% for until September of that year, when painting and other cosmetic renovations caused a number of residential rooms to remain vacant for a temporary period. Considering that the facility still achieved an occupancy rate of 88.68% for the year, the projected 90% occupancy rate for the first year following approval of this application seems achievable. In addition, it should be noted that the Nathan Miller Center, a 65-bed RHCf located only 6.4 miles from Sprain Brook, is in the process of closing. This circumstance may well result in additional admissions for Sprain Brook.

¹ This number reflects the recent reduction of 540 beds in the county (all 321 beds at Taylor Care Center and 219 beds at Guild Home for Aged Blind).

² Unaudited

The facility's case mix index at the end of January 2009 was 1.0583. Of 95 residents in the facility at that time, one was a Physical A and two were Physical B's.

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 75% of the Health Systems Agency area percentage of Medicaid admissions, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

Sprain Brook failed to achieve the 75% County Planning Average during the years under consideration as shown below:

<u>Medicaid Admissions Data</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Sprain Brook Manor Nursing Home	15.98%	11.98%	14.66%	7.89%
Westchester County 75% Average	27.55%	27.84%	25.48%	11.48%

The applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patients admissions is at least 75% of the percentage for the planning area (Westchester County).

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Sprain Brook Manor Nursing Home	Same
<i>Address</i>	77 Jackson Avenue Scarsdale, NY 10583	Same
<i>RHCF Capacity</i>	121	Same
<i>ADHC Program Capacity</i>	0	Same
<i>Type of Operator</i>	Limited Liability Company	Same
<i>Class of Operator</i>	Proprietary	Same
<i>Operator</i>	Sprain Brook Manor Nursing Home, LLC	Sprain Brook Manor Rehab, LLC
	<u>Members</u> -- Robert Klein (50.00%) -- Estate of Henry Book (50.00%)	<u>Members</u> -- Lazar Strulovitch (58.621%) -- Allen Stein (27.586%) -- Leopold Schwimmer (13.793%)

Character and Competence

- FACILITIES REVIEWED:

None

- INDIVIDUAL BACKGROUND REVIEW:

Lazar Strulovitch is the owner of Park Avenue Door and Hardware Inc., a door and hardware distributor located in Brooklyn. Mr. Strulovitch has been approved by the Public Health Council to operate a licensed home care services agency as part of an Assisted Living Program he intends to develop on Long Island.

Allen Stein is employed as comptroller at Sprain Brook Manor Nursing Home located in Scarsdale, NY. Mr. Stein is the owner of Kosher Food Depot doing business in Brooklyn, New York. Mr. Stein indicates he holds no ownership interests in health care facilities.

Leopold Schwimmer is employed as the Vice President of United Commercial Group USA, LLC, a commercial financing company. Mr. Schwimmer indicates he holds no ownership interests in health care facilities.

Character and Competence – Analysis:

No negative information has been received concerning the character and competence of the applicants. None of the members have any health facility interests.

In conjunction with the character and competence review of the proposed members, staff assessed the organizational competence of the ownership group to manage and operate a nursing home. The applicant has provided the following justification.

Allen Stein has worked as the comptroller of Sprain Brook Manor Nursing Home since 2008 and has directed a financial turn-around with the nursing home moving from a net loss of \$1,594,434 with 73% occupancy in 2007 to an expected net profit for 2010 with occupancy averaging 92% through May 2010. Mr. Stein has also implemented changes to several departments within the nursing home to achieve efficiencies, including the dietary department, drawing upon his seven years' work experience in the food industry.

Lazar Strulovitch has 18 years business experience in the development and operation of high-end real estate projects. Mr. Strulovitch serves on the boards of two not-for-profit organizations: Central UTA Inc, a non-profit school with approximately 4,000 students; and Eitsah Toshia, a non-profit organization which counsels children and families with educational disorders.

Leo Schwimmer has over 12 years experience in commercial financing, including the financing of several health care programs.

Project Review

- PROGRAM REVIEW:

No changes in program are being proposed in the application. No administrative services agreement is proposed in the application.

- PHYSICAL ENVIRONMENT:

No changes in the physical environment are proposed in this application.

Project Review – Analysis:

No changes in program or physical environment are proposed in the application. The purpose of the application is to establish Sprain Brook Manor Rehab, LLC as the new operator of Sprain Brook Manor Nursing Home.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement

The change in operational ownership will be effectuated in accordance with an executed asset purchase agreement, the terms of which are summarized as follows:

<i>Date:</i>	August 18, 2009
<i>Seller:</i>	Sprain Brook Manor Nursing Home, LLC
<i>Buyer:</i>	LNS Acquisition, LLC
<i>Assets Transferred:</i>	Seller's right, title and interest as Lessee in the lease; the business and operation of the Facility, except for those assets which are excluded herein; telephone equipment; furniture and moveable equipment; service, financing, rental, maintenance, insurance; all inventory, supplies and other articles of personal property; such right as Seller may have for the use of the Facility name, logos, trademarks and service marks associated with the Facility; resident funds held in trust; all security deposits and prepayments to the extent assumable by Buyer, if any for future services held by Seller; all menus, policies and procedures manuals and computer software; copies of all financial books and records in Seller's possession relating to the Facility; all resident/patient records relating to the Facility; all employee and payroll records; goodwill in connection with the business of the Facility; all licenses and permits held or owned by Seller relating to the ownership or operation of the Facility; to the extent assignable, Seller's Medicare, Medicaid and Managed Care Agreements and provider numbers; Seller's security deposit with Landlord or Landlord's mortgagee and all other assets of Seller relating to the Facility other than the Excluded Assets.
<i>Excluded Assets:</i>	All cash, deposits or cash equivalents; all marketable securities; all accounts and notes receivables with respect to services rendered prior to the Adjustment Date; all retroactive rate increases, resulting from rate appeals, audits or otherwise, that become effective after the Adjustment Date with respect to third party payments, from any source, and that are for services rendered by the Facility prior to the Adjustment Date.
<i>Assume Liabilities:</i>	None
<i>Purchase Price:</i>	\$7,800,000
<i>Payment of Purchase Price:</i>	\$1,500,000 upon the signing of this agreement as a deposit, by forgiveness as provided in this Agreement and the Closing Escrow; \$6,300,000 in cash at the Closing

The applicant will meet the purchase price as follows:

Equity	\$3,500,000
Bank Loan (6.25% interest rate for a 20 year term with a 10 year payout period)	\$4,300,000

The applicant has indicated that when the balloon payment becomes due they plan to refinance the loan. If refinancing acceptable to the Department is not available when the balloon payment is due, the members will fund the balloon through equity contributions. The applicant submitted an affidavit indicating that the members will fund the balloon payment via equity contributions.

The applicant has also submitted an affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding any agreement, arrangement or understanding between the applicant and the transferor to the contrary, to be liable and responsible for any Medicaid overpayments made to the facility and/or surcharges, assessments or fees due from the transferor pursuant to Article 28 of the Public Health Law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility. Currently, the facility has no outstanding liabilities.

As mentioned in a preceding paragraph, LNS Acquisition, LLC has entered into an assignment agreement with Sprain Brook Manor Rehab, LLC assigning all rights, title and interest to Sprain Brook Manor Rehab, LLC.

Lease Rental Agreement

The applicant has submitted an executed lease assignment for the site that they will occupy, of which the terms are summarized below:

- Premises:* 77 Jackson Avenue, Scarsdale, New York
- Lessor:* Sprain Brook Holding Corp.
- Lessee:* Sprain Brook Manor Rehab, LLC
- Term:* Expires March 31, 2068
- Rental:* Annual rent of \$217,800
- Provisions:* The tenant will be responsible for property taxes and property insurance.

Currently, the facility's Medicaid capital reimbursement is based on the lease rental reimbursement methodology. After the change in ownership, reimbursement will continue to be based on the lease rental reimbursement methodology.

Operating Budget

The applicant has submitted an operating budget, in 2010 dollars, for the first year subsequent to the change in ownership:

	<u>Per Diem</u>	<u>Total</u>
Revenues:		
Medicaid	\$200.98	\$5,384,846
Medicare	522.32	2,904,517
Private Pay	341.65	<u>2,759,004</u>
Total Revenues		\$11,048,367
Expenses:		
Operating	\$232.73	\$9,250,838
Capital	<u>25.95</u>	<u>1,031,512</u>
Total Expenses	\$258.68	\$10,282,350
Net Income		\$766,017
Utilization: (patient days)		39,749
Occupancy		90.00%

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

- Expenses include lease rental.
- Budgeted case mix of 1.05 was utilized by the facility at the time of CON filing for change in ownership, which is reflected in the 2010 Medicaid rate.
- The capital component of the Medicaid rate is based on lease rental reimbursement methodology.
- Overall utilization for year one is projected at 90.00%. Utilization by payor source is expected as follows:

Medicaid	67%
Medicare	14%
Private	19%
- Breakeven occupancy is projected at 83.54%.

Capability and Feasibility

The purchase price is \$7,800,000. The proposed members paid a deposit of \$1,500,000, and provided the seller with a \$2,000,000 loan to meet cash flow needs, which appears as a liability on the balance sheet of the existing operator. The remaining \$4,300,000 will be met via a bank loan.

Working capital requirements are estimated at \$1,713,726, based on two months of first year expenses. The applicant will finance \$856,863 at an interest rate of 5% for a five year term. A letter of interest has been submitted in regard to the working capital loan. The remainder, \$856,863, will be provided via equity to be derived from the proposed members personal net worth. The applicant submitted affidavits from each member indicating that he or she is willing to contribute resources not in proportion to ownership percentages. Presented as BFA Attachment A, is the personal net worth statements of the proposed members of Sprain Brook Manor Rehab, LLC., which indicates the availability of sufficient funds to meet the equity requirement. The applicant submitted an affidavit indicating that each member is willing to contribute resources not in proportion to ownership percentages. Presented as BFA Attachment C, presents the pro forma balance sheet of Sprain Brook Manor Rehab, LLC. As shown, the facility will initiate operations with \$4,356,863 in members' equity. It is noted that assets include \$7,800,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, the net asset position would be a negative \$3,443,137 from a Medicaid perspective.

The submitted budget indicates a net income of \$766,017. Following is a comparison of historical and projected revenues and expenses:

2009 Historical Revenue	\$9,939,186
2009 Historical Expense	9,488,041
2009 Net Income	\$451,145
Incremental Revenues	\$1,109,181
Incremental Expenses	794,309
Incremental Net Income	\$314,872
Projected Net Income	\$766,017

Incremental income includes an increase in overall utilization from 2009 and a slight increase in Medicare (.30%) and Private Pay utilization (.28%) and trended reimbursement rates. Incremental expenses include rent expense and the difference between the current year and average historical levels. The applicant projected an occupancy rate of 90% during the first year.

The applicant has submitted a marketing plan indicating the reasons for the projected occupancy. The comptroller/assistant administrator of the facility instituted changes to the admission process at the facility, which has resulted in improved occupancy.

The comptroller/assistant administrator is one of the members of the proposed operator, and the new operator will continue these new admission procedures. The facility now provides a weekend admission process and accelerated admission determination process whereby the facility is more responsive to hospital and community agency discharges seeking placement in residential health care facilities. The new operator will inform the hospital discharge planners of its intention to admit "Medicaid Pending" residents in order to facilitate and expedite the admission of Medicaid recipients to the facility. Occupancy rates in Westchester County have seen improvement during 2009, and are expected to increase due to the closures of RHCF beds in the County. The total number of beds closed in Westchester is 540 through 2009. As a result of these measures taken and the bed closings, the applicant anticipates achieving their projected occupancy. The applicant has indicated that occupancy through December 31, 2010 was 88.68%.

The applicant has indicated that the facility was maintaining census over 90% for most of the year but in September they initiated cosmetic renovations to the facility and had a number of residential rooms vacant while they painted the rooms. This work resulted in admissions dropping off while the painting was underway. Additionally, it should be noted that Nathan Miller Center, a 65 bed residential health care facility located only 6.4 miles from Sprain Brook has received approval for their closure plan on November 16, 2010.

BFA Attachment B is the financial summary of Sprain Brook Manor Nursing Home during the period 2007 through 2009. The facility had an average negative working capital position and a negative net asset position. Also, the facility incurred an average net loss of \$866,914. The applicant has indicated that the loss in 2007 was the result of

the fact that the facility had not adjusted its expense budget to take into consideration its lower census in 2007. The facility implemented cost reductions in 2008 to address the loss that resulted from its decreased occupancy and began to revise its admissions practices to increase occupancy. The facility improved operations in 2008 showing a net income from operations of \$68,918; however, the facility experienced a net loss of \$1,456,557 due to a prior period revenue adjustment of \$1,536,308. The applicant has indicated that the prior period adjustments consisted of the following: for revenue assessment tax from 2002 to 2006; for PRI adjustment from 2004 to 2007; for interest expense for 2007; tax credits and SEIU 1199 payments ordered by the court. The facility's plan to increase occupancy and reduce operating expenses resulted in a net income of \$451,145 in 2009. The applicant submitted internal financial statements through July 31, 2010, and it shows a net income of \$1,069,950.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement
BFA Attachment B	Financial Summary-Sprain Brook Manor Nursing Home
BFA Attachment C	Pro Forma Balance Sheet-Operating Entity.
BFA Attachment D	Establishment Checklist



Public Health and Health Planning Council

Project # 102048-E

Ozone Acquisitions, LLC
d/b/a Central Island Healthcare

County: Nassau (Plainview)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: July 22, 2010

Executive Summary

Description

Ozone Acquisitions LLC, d/b/a Central Island Healthcare, operator of an existing 202-bed skilled nursing facility located at 825 Old Country Road, Plainview, requests approval to change ownership interest for existing members. The changes in operating ownership interests will have no material impact on the RHCF, but due to the requested changes in percentage, this application requires Council approval. There is no real estate transaction.

The current and proposed ownership of the RHCF is as follows:

<u>Current</u>	<u>Proposed</u>
Dvora Ostreicher (76%)	Dvora Ostreicher (25%)
David Ostreicher (8%)	David Ostreicher (25%)
Michael Ostreicher (8%)	Michael Ostreicher (25%)
Jennifer Ostreicher (8%)	Jennifer Ostreicher Mittel (25%)

The purpose of this application is to transfer 17% ownership from Dvora Ostreicher to each of her 3 children, David Ostreicher, Michael Ostreicher and Jennifer Ostreicher Mittel – for a total transfer 51%.

Dvora Ostreicher has ownership interests in the following nursing homes: East End Nursing and Rehabilitation Center, and Forest Hills Care Center.

There are no project costs associated with this application.

DOH Recommendation
Contingent approval.

Need Summary

Utilization has increased from 90.4% in 2007 to 91.8% in 2009.

<u>RHCF Bed Need – Long Island</u>	
2016 Projected Need	18,201
Current Beds	16,106
Beds Under Construction	102
<u>Total Resources</u>	<u>16,208</u>
<u>Unmet Need</u>	<u>1,993</u>

Program Summary

There will be no change in beds or services upon approval. The skilled nursing facility will continue to provide the same services.

Financial Summary

The total membership purchase price is \$291,000, that will be partially met via personal promissory notes between the seller and the buyer for \$77,000 each, at 4% for a 5 year term, totaling \$231,000. In addition, each member is subject to a cash payment at the time of closing of \$10,000 each; totaling \$30,000, and an additional \$10,000 per member, totaling \$30,000, is currently being held in escrow by a third party escrow agent.

David Ostreicher	\$ 97,000
Michael Ostreicher	\$ 97,000
Jennifer Ostreicher Mittel	<u>\$ 97,000</u>
<i>Total</i>	<i>\$291,000</i>

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of a plan to enhance access to Medicaid residents. At a minimum, the plan shall include, but not necessarily limited to, ways in which the facility will:
 - a) Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
 - b) Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
 - c) Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy; and
 - d) Submit an annual report for two years to the Department of Health, which demonstrates substantial progress with the implement of the plan. The plan should include but not be limited to:
 - Information on activities relating to a-c above; and
 - Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
 - Other factors as determined by the applicant to be pertinent.

The Department reserves the right to require continued reporting beyond the two year period. [RNR]

3. Submission of an executed promissory note commitment for all proposed members that is acceptable to the Department. [BFA]
4. Submission of updated budgets, with all assumptions noted, that include the impact of the State's 2011-2012 Budget and continues to demonstrate financial feasibility, acceptable to the Department of Health. [BFA]
5. Submission of an Amended and Restated Operating Agreement, signed by all members, revised to remove all references to Economic Interest Holders, which must be acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Central Island Healthcare, an existing Article 28 residential health care facility (RHCF) has utilization below that of Nassau County for all years in question as shown in the table below:

<u>RHCF Occupancy</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Central Island Healthcare	90.4%	94.7%	91.8%
Nassau County	93.6%	94.8%	93.4%

At the end of January, 2009, the facility's case mix index was 1.34 for 194 residents of whom 3 were Physical A's and 2 Physical B.

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, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

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

Medicaid admissions at Central Island Healthcare were below the 75% planning average for both 2007 and 2008. The facility reported Medicaid admissions of 2.13% and 2.79% in 2007 and 2008, respectively. The 75% planning averages for Nassau County for said years were 15.2% (2007) and 13.5% (2008). The facility was below the Medicaid Access Standard for both years in question.

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Central Island Healthcare	Same
<i>Address</i>	825 Old Country Road Plainview, NY 11803	Same
<i>RHCF Capacity</i>	202	Same
<i>ADHC Program Capacity</i>	N/A	Same
<i>Type Of Operator</i>	Proprietary	Same
<i>Class Of Operator</i>	Limited Liability Company	Same
<i>Operator</i>	Ozone Acquisitions, LLC	Same
	<u>Members</u>	<u>Members</u>
	Dvora Ostreicher 76%	Dvora Ostreicher 25%
	David Ostreicher 8%	David Ostreicher 25%
	Michael Ostreicher 8%	Michael Ostreicher 25%
	Jennifer Ostreicher Mittel 8%	Jennifer Ostreicher Mittel 25%

Character and Competence

- FACILITIES REVIEWED:

Central Island Healthcare RHCF 12/7/2009 to present

- INDIVIDUAL BACKGROUND REVIEW:

Dvora Ostreicher is currently an owner/operator of the facility with a decreasing percent of ownership and is not subject to review.

David Ostreicher discloses a New York State attorney's license in good standing. Mr. Ostreicher discloses employment of:

Certilman Balin Adler and Hyman, LL., law firm, as attorney from 7/2007 to present
Abrams Fensterman, LLP, law firm, as attorney, from 9/2004 to 6/2007

Mr. Ostreicher discloses ownership in:

Central Island Healthcare from 12/7/2009 to present

Michael Ostreicher discloses a New York State Nursing Home Administrator's License in good standing. Mr. Ostreicher discloses employment of:

Central Island Healthcare as administrator from 3/2/2005 to present;
Clean Tex Services, commercial laundry service, as production manager from 6/20/2003 to 02/15/2005.

Mr. Ostreicher discloses ownership interest in:

Central Island Healthcare from 12/7/2009 to present

Jennifer Ostreicher Mittel discloses a New York State certification of public school teacher in good standing. Ms. Mittel discloses employment of:

Bright Smile Center, contract agency for special education teachers, as special education itinerant teacher, from 3/1/10 to present.

Ms. Mittel discloses ownership interest of:

Central Island Healthcare from 12/7/09 to present.

Character and Competence – Analysis:

The review of operations of the facility for the time periods indicated reveals that a substantially consistent high level of care has been provided since there are no enforcements. No adverse information was received concerning the character and competence of any of the applicants.

Project Review

There are no proposed changes in either the program or physical environment of the facility.

Project Review – Analysis:

The purpose of this application is to transfer 17% ownership from Dvora Ostreicher to each of her 3 children, David Ostreicher, Michael Ostreicher and Jennifer Ostreicher Mittel. (Total Transfer 51%)

Recommendation:

From a programmatic perspective, approval is recommended.

Financial Analysis

Membership Purchase Agreement

The applicants have submitted an executed membership purchase agreement for the transfer of 51% of the operational ownership of Central Island Healthcare. The terms for each agreement are summarized below:

<i>Purpose:</i>	The transfer of 51% of the membership/ownership of Central Island Healthcare.
<i>Seller:</i>	Dvora Ostreicher.
<i>Purchaser:</i>	David Ostreicher, Michael Ostreicher, Jennifer Ostreicher Mittel.
<i>Purchase Price:</i>	* Individual Purchase Price listed below totaling \$291,000.
<i>Payment of Purchase Price:</i>	Each member has a proposed promissory note from the seller in the amount of \$77,000 at 4% for a 5 year term totaling \$231,000. Also, each member has \$10,000 put into a qualified escrow account for a total of \$30,000 and \$10,000 due each (2) days before the closing date for another \$30,000.

** David Ostreicher will pay \$97,000 for (17%) of membership interest in Central Island Healthcare.*

** Michael Ostreicher will pay \$97,000 (17%) of membership interest in Central Island Healthcare.*

** Jennifer Ostreicher Mittel will pay \$97,000 for (17%) of membership interest in Central Island Healthcare.*

Capability And Feasibility

The operational purchase price of \$291,000 will be satisfied with each member providing a down payment of \$10,000, totaling \$30,000 two days before the closing date from their personal funds.

Each member has already provided \$10,000, totaling \$30,000 in equity, which is currently being held in escrow. Presented as BFA Attachment A, are the personal net worth statements for the members that are receiving membership interest as a result of this application, which indicate the ability to pay according to the stated terms. Also, each member has submitted a draft promissory note provided by the seller to pay \$77,000 for their membership purchase at a rate of 4% for a 5 year term.

There are no significant issues of feasibility associated with this application.

Presented as BFA Attachment B, is the financial summary of Ozone Acquisitions, LLC D/B/A Central Island Healthcare. As Shown on Attachment B, the facility maintained a positive working capital position and net asset position for the period shown. Also, the facility achieved an operating income of \$2,246,821 and \$1,733,200 in 2009 and 2008, respectively.

Presented as BFA Attachment C, is the financial summary of PALJR, LLC D/B/A as East Neck Nursing and Rehabilitation Center. As Shown on Attachment C, the facility maintained an average positive working capital position and net asset position for the period shown. Also, the facility achieved an average positive operating income of \$482,558 for the period shown. Also, the facility had a net loss of \$123,585 in 2008. The reason for the loss was due to interest rate payments of \$926,135. The applicant switched to a lower interest rate in 2009, resulting in a positive net income.

Presented as BFA Attachment D, is the financial summary of Forest Hills Care Center. As shown on Attachment D, the facility maintained a positive working capital position and net asset position for the period shown. Also, the facility achieved an average operating income of \$328,250 for the period shown.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement, Individual Members
BFA Attachment B	Financial Summary Ozone Acquisitions, LLC D/B/A Central Island Healthcare
BFA Attachment C	Financial Summary East End Nursing and Rehabilitation Center
BFA Attachment D	Financial Summary Forest Hills Care Center



Public Health and Health Planning Council

Project # 102234-E

**Wedgewood Care Center, Inc.
d/b/a Highfield Gardens Care Center of Great Neck**

**County: Nassau (Great Neck)
Purpose: Establishment**

**Program: Residential Health Care Facility
Submitted: September 23, 2010**

Executive Summary

Description

Wedgewood Care Center, Inc., d/b/a Highfield Gardens Care Center of Great Neck (Highfield Gardens), a 200-bed proprietary residential health care facility (RHCF) with a 50-capacity adult day health care program (ADHCP), all located at 199 Community Drive, Great Neck, seeks approval to transfer 10 shares of stock from Robert Bleier (father) to Jonathan Bleier (son). This transaction represents a 5% change in ownership, reducing Robert Bleier's ownership interest to 57% and increasing Jonathan Bleier's ownership interest to 14%.

The Department was notified of Jonathan Bleier's initial 9% ownership acquisition on September 8, 2010. As Mr. Bleier proposes to now assume an interest of 10% or more in Highfield Gardens, Public Health and Health Planning Council review and approval of Mr. Bleier as a new principal stockholder is required via this CON, pursuant to Public Health Law Section 2801-a(4)(c).

The ownership of Wedgewood Care Center, Inc., d/b/a Highfield Gardens Care Center before and after the proposed stock transfer is as follows:

OWNERSHIP <i>Member</i>	CURRENT		PROPOSED	
	<i>Shares</i>	<i>%</i>	<i>Shares</i>	<i>%</i>
Robert Bleier	124	62%	114	57%
Jonathan Bleier	18	9%	28	14%
Sara Bleier	18	9%	18	9%
Blima Halpert	10	5%	10	5%
Henry Halpert	10	5%	10	5%
Samuel Schiffer	10	5%	10	5%
Yocheved Schiffer	10	5%	10	5%

The ownership of the real property and moveable equipment will not change as a result of the proposed stock transfer.

The project does not include any construction cost.

DOH Recommendation
Contingent approval.

Need Summary

Overall occupancy of Highfield Gardens was 93.3% in 2009 vs. 90.5% in 2008. To the contrary, the overall occupancy of all Nassau County RHCFs decreased from 94.5% in 2008 to 93.4% in 2009.

<u><i>RHCF Bed Need</i></u>	<u><i>Nassau/Suffolk</i></u>
2016 Projected Need	16,962
Current RHCF Beds	15,429
Unmet Need	1,533

Program Summary

No adverse information was received concerning the character and competence of the applicant. There will be no change in beds or services upon approval.

Financial Summary

To acquire the 10 shares of stock from Robert Bleier, Jonathan Bleier will pay \$100,000 in cash and sign a three-year promissory note for the remaining balance of \$110,096. The promissory note will carry the IRS's applicable interest rate, which is currently 0.43%.

Budget:	<i>Revenues:</i>	\$ 23,028,145
	<i>Expenses:</i>	<u>22,144,823</u>
	<i>Gain/(Loss):</i>	\$ 883,322

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The 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.

The Department reserves the right to require continued reporting beyond the two year period. [RNR]

2. Submission of a statement from the applicant, acceptable to the Department, that there will be no change in the method of operation and services of the Center. [RNR]
3. Submission of an executed Promissory Note acceptable to the Department of Health. [BFA]

Council Action Date

June 16, 2011.

Need Analysis

Background

Wedgewood Care Center, Inc. is seeking approval to increase Jonathan Bleier's ownership from 9% to 14%, through the purchase of common stock. Wedgewood Care Center, Inc. is the licensed operator of Highfield Gardens Care Center of Great Neck, a 200-bed residential health care facility (RHCF) located at 199 Community Drive, Great Neck.

Analysis

Data on the following table show that the overall occupancy of Highfield Gardens was 93.3% in 2009 vs. 90.5% in 2008. To the contrary, the overall occupancy of all Nassau County RHCFs decreased from 94.5% in 2008 to 93.4% in 2009.

<u>RHCF Utilization</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Highfield Gardens Care Center	91.7%	90.5%	93.3%
Nassau County	94.3%	94.5%	93.4%

Source: ICR Cost Report 2007-09

The facility's case mix index at the end of 2009 was 1.25. The total facility count was 191 of which four (4) were PA 1 and four (4) were PB 1.

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 75% of the Health Systems Agency area percentage of Medicaid admissions, whichever is less. In calculating such percentages, the department will use the most current data which have been received and analyzed by the department.

An applicant will be required to make appropriate adjustments in its admission policies and practices so that the proportion of its own annual Medicaid patients admissions is at least 75% of the planning area percentage of the Health Systems Agency percentage, whichever is applicable. Medicaid admissions for the facility compared to the county are shown below for 2007-09:

<u>Medicaid Occupancy</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Highfield Gardens Care Center	24.1%	18.3%	16.4%
75% Medicaid Occupancy for Nassau County	15.5%	13.5%	12.7%

Therefore, the applicant is not required to make an adjustment in its admissions policies and practices.

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Highfield Gardens Care Center of Great Neck	Same
<i>Address</i>	199 Community Drive Great Neck, NY 11201 (Nassau County)	Same

<i>RHCF Capacity</i>	200	Same
<i>ADHC Program Capacity</i>	50	Same
<i>Type of Operator</i>	Proprietary	Same
<i>Class of Operator</i>	Corporation	Same
<i>Operator</i>	Wedgewood Care Center Inc.	Wedgewood Care Center Inc.
	<u>Members</u>	<u>Members</u>
	Robert Bleier 62%	Robert Bleier 57%
	Sara Bleier 9%	Sara Bleier 9%
	Jonathan Bleier 9%	Jonathan Bleier 14%
	Blima Halpert 5%	Blima Halpert 5%
	Henry Halpert 5%	Henry Halpert 5%
	Samuel Schiffer 5%	Samuel Schiffer 5%
	Yocheved Schiffer 5%	Yocheved Schiffer 5%

Character and Competence

Jonathan Bleier, a shareholder of Wedgewood Care Center, Inc, the present operator of Highfield Gardens Care Center of Great Neck, seeks approval to acquire 10 shares of common stock of Wedgewood Care Center, Inc. representing 5% of the issued and outstanding shares of capital stock from his father, Robert Bleier, resulting in a 14% ownership of Wedgewood Care Center, Inc. Jonathan Bleier is being reviewed because his proposed ownership percentage will exceed 10%. Robert Bleier's ownership percentage will be decreasing and the other ownership interests will remain the same. As a result, the other members of Wedgewood Care Center, Inc. are not subject to review.

- FACILITIES REVIEWED:**

Highfield Gardens Care Center RHCF from 6/1/2007(2008 ownership) to present.

Other

Citywide Mobile Response, licensed ambulance company, from 2000 to present

- INDIVIDUAL BACKGROUND REVIEW:**

Jonathan Bleier discloses employment of:

Highfield Gardens Care Center from 6/1/2007 to present as chief financial officer;
Highfield Gardens Care Center from 6/1/2006 to 6/1/2007 as accounts payable/accounts receivables manager;
Highfield Gardens Care Center from 6/1/2005 to 6/1/2006 as accounts payable manager;
Highfield Gardens Care Center from 6/1/2004 to 6/1/2005 as purchasing manager;
Citywide Mobile Response, licensed ambulance company, from 2000 to 2004 as assistant administrator.

Mr. Bleier discloses ownership interest in:

City wide Mobile Response, licensed ambulance company, from 2000 to presnt;
Highfield Gardens Care Center from 2008 to present.

Character and Competence – Analysis:

A review of Highfield Gardens Care Center from 6/1/2007 to present reveals the following information:

- The facility was fined \$6,000.00 pursuant to a Stipulation and Order NH-08-34 signed on June 18, 2008 for surveillance findings of August 8, 2007. Deficiencies was found under 10 NYCRR 415.12 Quality of Care; 415.12(c)(1) Quality of Care: Pressure Sores; 415.12(h)(1)&(2) Quaiy of Care: Accidents.

The review of operations of the facility for the time period indicated reveals that a consistently high level of care has been provided, since there are no repeat enforcements. No adverse information was received concerning the character and competence of the applicant.

Project Review

There are no proposed changes in the program or physical environment of the facility. No administrative services/consulting agreement is proposed in this application.

Project Review – Analysis:

No changes in program or physical environment are proposed in this application. The purpose of this application is to increase Jonathan Bleier's ownership from 9% to 14% through the purchase of common stock.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Stock Purchase Agreement

Jonathan Bleier signed an agreement on June 1, 2010, to purchase ten shares of Wedgewood Care Center, Inc., d/b/a Highfield Gardens Care Center of Great Neck stock from Robert Bleier for \$210,096. This transaction represents a 5% ownership transfer in Highfield Gardens from father to son. The purchase price will be satisfied as follows:

- \$100,000 down payment escrowed upon signing this agreement;
- \$110,096 in the form of a three year promissory note carrying the IRS's applicable interest rate, which is currently .43%.

The note will be paid as follows:

- \$50,000 on the first anniversary,
- \$50,000 on the second anniversary
- The balance of \$10,096 plus accrued interest on the third anniversary.

Real Property

The ownership of the real property and moveable equipment will not change as a result of the proposed stock transfer, and continues as follows:

<u>Land and Buildings</u>	<u>% Owned</u>
Highfield Holdings, LLC	100%
<u>Member</u>	<u>% Owned</u>
Robert Bleier	50%
Jonathan Bleier	20%
Sara Bleier	10%
Blima Halpert	5%
Henry Halpert	5%
Samuel Schiffer	5%
Yocheved Schiffer	5%

Lease Rental Agreement

The applicant has submitted an amended and restated executed lease rental agreement; the terms are summarized below:

Dated: May 3, 2010
Premises: 85,665 gross square feet located at 199 Community Drive, Great Neck, New York
Owner/Landlord: Highfield Holdings, LLC
Lessee: Wedgewood Care Center, Inc., d/b/a Highfield Gardens Care Center of Great Neck

Term: 35-years, lease expires on December 31, 2045
Rental: \$1,644,000 for 2010: \$1,680,000 for 2011: \$1,704,000 for 2012-2013:
 \$1,728,000 for 2014-2015: \$1,752,000 for 2016-2018: \$1,776,000 for 2019-
 2026: \$1,829,280 for 2027-2031: \$1,884,160 for 2032-2036: \$1,940,685 for
 2037-2041: \$1,998,905 for 2042-2045
Provisions: Triple-Net-Lease

The lease is a non-arm's length agreement.

Currently, Medicaid capital reimbursement is based on the return of and return on equity methodology, which will not be altered.

Operating Budget

The applicant has submitted the first year operating budget, in 2010 dollars, as summarized below:

	<u>Per Diem</u>	<u>Total</u>
RHCF – Revenues		
Medicaid-includes assessment	\$256.00	\$12,460,288
Medicare	555.00	5,923,515
Commercial	300.00	809,100
Private Pay	280.00	1,232,280
ADHCP – Revenues		
Medicaid & Transportation	\$189.07	<u>\$2,602.962</u>
<i>Total Revenues</i>		<u>\$23,028,145</u>
RHCF – Expenses:		
Operating	\$ 282.45	\$18,767,374
Capital	43.65	2,900,447
ADHCP – Expenses		<u>477,002</u>
<i>Total Expenses</i>		<u>\$22,144,823</u>
<i>Net Income (Loss)</i>		<u><u>\$883.322</u></u>
RHCF Utilization: (Patient Days)		66,444
RHCF Occupancy %		91.02%
ADHCP Utilization (visits)		13,767
ADHCP Occupancy		88.00%

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

- Medicaid rates are based on the 2010 actual rates for inpatient services.
- Budgeted case mix of .9074 is based on the facility's current experience.
- Medicare and private pay revenues are based on actual rates.
- Utilization is projected at 91.02%, which is slightly less than the average occupancy of 91.27% experienced through the nine months ending September 30, 2010. Additionally, the average census for the three years between 2007 and 2009 were 91.93%.
- Utilization by payor source is anticipated as follows which is consistent with current experience:

Medicaid Fee-for-Service	73.26%
Medicare Fee-for-Service	16.06%
Commercial Fee-for-Service	4.06%
Private Pay	6.62%

The following is noted with respect to the submitted adult day health care budget:

- Revenues reflect current payment rates.
- Utilization is assumed to continue as 100% Medicaid

Breakeven utilization for the RHCF and ADHCP are projected at 87.52% and 84.62%, respectively.

Capability and Feasibility

The application does not include any project costs, but proposes that Robert Bleier will sell ten shares of Wedgewood Care Center, Inc. stock to his son, Jonathan Bleier, for \$210,096. Jonathan Bleier will satisfy the purchase price by depositing \$100,000 from personal assets into an escrow account and entering into a three year promissory note with Robert Bleier for the balance of \$110,096 at the above stated terms.

Presented as BFA Attachment A, is the net worth statement for Jonathan Bleier, which indicates that he has sufficient resources to satisfy the remaining balance.

Working capital requirements should be minimal as operations and billings will not be impacted by this project.

The budget indicates a net income of \$883,322 would be generated in the first year after the stock transaction. It is expected that the ADHCP Medicaid reimbursement rate will be reset from a budget rate to a cost based rate, causing the revenues and net income to decline. While the Department does not know what the total reduction in revenues will be at this time, it is expected that the facility will continue to operate profitably. The budget appears reasonable.

As shown on BFA Attachment B, Wedgewood Care Center, Inc., d/b/a Highfield Gardens Care Center of Great Neck had a slightly negative average working capital position of \$76,382 and had an average positive net asset position of \$2,339,881. During the years 2007 through 2009, the facility generated positive operating results that averaged \$1,200,583.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth Statement, Jonathan Bleier
BFA Attachment B	Financial Summary, Wedgewood Care Center, Inc., d/b/a Highfield Gardens Care Center of Great Neck
BFA Attachment C	Establishment Checklist



Public Health and Health Planning Council

Project # 102346-E

KFG Operating Two, LLC
d/b/a Bensonhurst Center for Rehabilitation and Healthcare

County: Kings (Brooklyn)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: November 3, 2010

Executive Summary

Description

KFG Operating Two, LLC, d/b/a Bensonhurst Center for Rehabilitation and Healthcare is proposing to be established as the sole operator of St. Jerome's Health Services Corporation d/b/a Holy Family Home, a 200-bed residential health care facility (RHCF) located at 1740 84th Street, Brooklyn. KFG Operating Two, LLC entered into an asset purchase agreement with Holy Family Home on September 21, 2010, with the consent of the United States Bankruptcy Court.

The proposed change of ownership will replace the current operator from a not-for-profit corporation to a for-profit LLC, and is reflected as follows:

<u>Current Co-Operators</u>	<u>Proposed Operator</u>
St. Jerome's Health Services Corporation d/b/a Holy Family Home	KFG Operating Two, LLC d/b/a Bensonhurst Center for Rehabilitation and Healthcare
Saint Vincent's Catholic Medical Centers of New York	SOLE MEMBER: -- KFG Acquisitions, LLC

KFG Acquisitions, LLC is the sole member and has controlling interest over KFG Operating Two, LLC and KFG Land Two, LLC, in which the members and their membership interests are the same (below):

<u>Proposed Membership</u>	
Yaakov Klein	40%
Charles-Edouard Gros	30%
Bernard Fuchs	25%
Eli Lieber	5%

KFG Land Two, LLC has entered into a separate agreement with St. Jerome's Health Services Corporation for the sale and acquisition of the real property interests of the RHCF. KFG Land Two, LLC will enter into a lease agreement granting site control to KFG Operating Two, LLC through a non-arms length relationship.

DOH Recommendation
 Contingent approval.

Need Summary

Holy Family Home has maintained an occupancy rate above the 97% planning optimum for 2007-2009.

<u>RHCF Need – New York City</u>	
2016 Projected Need	51,071
Current Beds	43,027
Beds Under Construction	636
Total Resources	43,636
Unmet Need	7,435

Program Summary

There will be no change in beds or services upon approval. No adverse information has been received concerning the character and competency of any of the applicants.

Financial Summary

Purchase price for the operations is \$11,000,000, to be met via equity of \$2,200,000 and financing of \$8,800,000 (30 yrs. @ 5.25%). For the realty portion, the applicant will provide equity of \$1,252,500 and will finance \$5,010,000 (30 yrs. @ 5.25%).

Budget:	<i>Revenues:</i>	\$ 19,174,625
	<i>Expenses:</i>	<u>18,383,750</u>
	<i>Gain/(Loss):</i>	\$ 790,875

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation of this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of a plan to enhance access to Medicaid residents. At a minimum, the plan shall include, but not necessarily limited to, ways in which the facility will:
 - a) Reach out to hospital discharge planners to make them aware of the facility's Medicaid Access Program;
 - b) Communicate with local hospital discharge planners on a regular basis regarding bed availability at the nursing facility;
 - c) Identify community resources that serve the low-income and frail elderly population who may eventually use the nursing facility, and inform them about the facility's Medicaid Access policy; and
 - d) Submit an annual report for two years to the Department of Health, which demonstrates substantial progress with the implement of the plan. The plan should include, but not be limited to:
 - Information on activities relating to a-c above; and
 - Documentation pertaining to the number of referrals and the number of Medicaid admissions; and
 - Other factors as determined by the applicant to be pertinent.

The Department reserves the right to require continued reporting beyond the two year period. [RNR]

3. Submission of a loan commitment for the purchase of the operation that is acceptable to the Department. [BFA]
4. Submission of a loan commitment for the purchase of the real estate that is acceptable to the Department. [BFA]
5. Submission of a working capital loan commitment that is acceptable to the Department. [BFA]
6. Submission of updated budgets, with all assumptions noted, that include the impact of the State's 2011-2012 Budget and continues to demonstrate financial feasibility, acceptable to the Department of Health. [BFA]
7. Submission of a photocopy of the signed and dated Certificate of Amendment of the Articles of Organization of KFG Operating Two, LLC, acceptable to the Department. [CSL]
8. Submission of a photocopy of the signed and dated amended and restated operating agreement of KFG Operating Two, LLC, acceptable to the Department. [CSL]
9. Submission of a photocopy of the signed and dated Certificate of Amendment of the Articles of Organization of KFG Acquisitions, LLC, acceptable to the Department. [CSL]
10. Submission of a photocopy of the signed and dated operating agreement of KFG Acquisitions, LLC, acceptable to the Department. [CSL]
11. Submission of a photocopy of the signed and dated certificate of dissolution or certificate of amendment of the certificate of incorporation of St. Jerome's Health Services Corporation, acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Holy Family Home is an existing Article 28 RHCf that has utilization above that of Kings County for all years in question, as shown below:

<u>RHCf Occupancy</u>	<u>2007</u>	<u>2008</u>	<u>2009*</u>
Holy Family Home	98.8%	98.5%	98.0%
Kings County	91.8%	92.2%	92.3%

**Data for 2009 may be incomplete*

At the end of January, 2009, the facility's case mix index was 1.0015 for 193 residents of whom 7 were Physical A's and 6 were Physical B's.

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, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

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

Holy Family Home was below the 75% planning average for 2008, at 12.9%, and did not report for 2007. The 75% planning averages for Kings County for the two years was 29.4%.

Conclusion

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Holy Family Home	Bensonhurst Center for Rehabilitation and Healthcare
<i>Address</i>	1740 84 th Street Brooklyn, NY 11214 (Kings County)	Same
<i>RHCf Capacity</i>	200	Same
<i>ADHC Program Capacity</i>	NA	Same
<i>Type Of Operator</i>	Voluntary	Proprietary
<i>Class Of Operator</i>	Corporation	Limited Liability Company

Operator	Operator: St Jerome's Health Services Corporation Co-Operator: St Vincent's Catholic Medical Center of New York	KFG Operating Two, LLC, whose sole member is KFG Acquisitions, LLC. The members of KFG Acquisitions, LLC are: Yaakov Klein (40%) Charles-Edouard Gros (30%) -- managing member Bernard Fuchs (25%) Eli Lieber (5%) -- managing member
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Character and Competence

- FACILITIES REVIEWED:

RHCFs

Smithtown Center for Rehabilitation and Nursing Care	from 7/2005 to present
Bellhaven Center for Rehabilitation and Nursing Care	from 2/2010 to present
Dumont Center for Rehabilitation and Nursing Care	from 5/2010 to present
Hudson Pointe at Riverdale Center for Nursing	from 1/1/2006 to 8/31/2010

Assisted Living Facilities

Westchester Center for Independent and Assisted Living	from 8/2010 to present
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- INDIVIDUAL BACKGROUND REVIEW:

Yaakov Klein discloses no employment history or health facility ownership. Mr. Klein states he has volunteered in his father's (Abraham Klein) nursing facilities and in the community.

Charles-Edouard Gros is a licensed New York State Nursing Home Administrator in good standing; a New York State Emergency Medical Technician-Paramedic in good standing. Mr. Gros discloses employment of:

Bellhaven Center for Rehabilitation and Nursing Care	from 3/2010 to present, as executive director
Fairview Nursing Care Center	from 2003 to 12/2009, as administrator of record
Bronx Center for Rehabilitation and Health Care	from 2001 to 2002, as Administrator in training program

Mr. Gros discloses ownership interests in:

Smithtown Center for Rehabilitation and Nursing Care	from 7/2005 to present
Bellhaven Center for Rehabilitation and Nursing Care	from 2/2010 to present
Dumont Center for Rehabilitation and Nursing Care	from 5/2010 to present
Westchester Center for Independent and Assisted Living	from 8/2010 to present

Bernard Fuchs discloses employment of:

Tiferes Investors LLC, investment related activities	from 1/1/2006 to present, as CEO and Chief Investment Officer
Lenoxx Electronics, importing electronics	from 6/1/75 to 1/1/2006, as president

Mr. Fuchs discloses ownership interest in:

Hudson Pointe at Riverdale Center for Nursing	from 1/1/2006 to 8/31/2010.
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Eli Lieber holds a New York State nursing home administrator's license in good standing and a New Jersey nursing home administrator's license in good standing. Mr. Lieber discloses employment of:

Park Terrace Care Center
Manhattanview Healthcare Center (NJ)

from 1/2003 to present as administrator
from 9/2000 to 1/2003 as administrator

Mr. Lieber discloses no health facility ownership.

Character and Competence – Analysis:

The review of operations of the facilities listed above for the time periods indicated reveals that a substantially consistent high level of care has been provided, since there are no enforcements listed for these facilities.

No adverse information has been received concerning the character and competency of any of the applicants.

Project Review

St. Jerome's Health Services Corporation is a component corporation of Saint Vincent's Catholic Medical Center of New York, which is in bankruptcy in the United States Bankruptcy Court, Southern District of New York. Holy Family Home entered into an Asset Purchase Agreement with KFG Operating TWO, LLC on September 21, 2010, with the consent of the United States Bankruptcy Court, to sell its interests in the operations of the residential health care facility. The sole member of KFG Operating TWO, LLC, is KFG Acquisitions, LLC, with a 100% membership interest.

The purpose of this application is to establish KFG Operating Two LLC, d/b/a Bayridge Center for Rehabilitation and Healthcare as the operator of Holy Family Home, an existing 200 bed residential health care facility in Brooklyn; Revised: December 22, 2010, change in certificate of assumed name to Bensonhurst Center for Rehabilitation and Healthcare.

Recommendation:

From a programmatic perspective, approval is recommended.

Financial Analysis

Background

St. Jerome's Health Services Corporation is associated with Saint Vincent's Catholic Medical Centers of New York, which filed for bankruptcy earlier this year in the United States Bankruptcy Court, Southern District of New York, in which the Bankruptcy Court gave consent to the Asset Purchase Agreement with KFG Operating Two, LLC.

The change in ownership will be effectuated in accordance with an executed asset purchase agreement, the terms of which are summarized below:

<i>Date:</i>	September 21, 2010
<i>Seller:</i>	St. Jerome's Health Services Corporation d/b/a Holy Family Home
<i>Purchaser:</i>	KFG Operating Two, LLC
<i>Purchased Assets:</i>	All assets used in the operation of the facility, including: all rights, title and interest in furniture and equipment; permits, documents and records; assignable leases, contracts, licenses and permits; Medicare and Medicaid provider numbers; menus, policy and procedure manuals; telephone numbers, fax numbers; security deposits; accounts and noted receivables, deposits and all cash maintained by Purchaser.
<i>Excluded Assets:</i>	All cash, cash equivalents, bank deposits or similar cash items of Seller, all securities owned by Seller, and all Pre-Closing, Accounts Receivable; third party retroactive adjustments; personnel files for employees of Seller who are not hired by Purchaser; any patient records; any claim, right or interest for taxes related to the operation of Business for any periods prior to the Closing; all insurance policies relating to the Business prior to the Closing Effective Date and security deposits for rent, electricity, telephone or other utilities and prepaid charges and expenses of Seller.

Assumed Liabilities: Liabilities arising out of the employment by Seller of any employees on or before the Closing; all liabilities arising after the Closing with respect to assigned contracts, licenses and leases, all outstanding New York Health Facility Cash Assessment Program Liabilities of the Seller not to exceed \$42,894; any contingent liabilities as of the Closing date relating to the Healthcare Program Liabilities of Seller; and Medicaid retroactive rate Adjustment Liabilities to January 1, 2009 not to exceed \$1,900,000.

Excluded Liabilities: Any liability associated with Excluded Assets and prior to the Closing.

Purchase Price: \$11,000,000

Payment of Purchase Price: \$1,100,000 in escrow; \$9,900,000 to be paid at Closing

The applicant has provided 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 January 1, 2009, and up to an amount of \$1,900,000 as stated in the Asset Purchase Agreement. Currently, there are no outstanding Medicaid overpayment liabilities.

Purchase and Sale Agreement

The change in realty ownership will be effectuated in accordance with the submitted executed agreement, the terms of which are summarized below:

Date: September 21, 2010

Seller: St. Jerome's Health Services Corporation

Purchaser: KFG Land Two, LLC

Transaction: Real estate located at 1740 84th Street, Brooklyn, New York and furniture, furnishings, fixtures, equipment and other personal property owned by Seller in connection with the real estate are to be conveyed together with all easements, right of way, air or development rights, reservations, privileges, appurtenances pertaining to the interest of the real estate.

Purchase Price: \$6,262,500

Payment of Purchase Price: \$626,250 to be held in escrow; \$5,636,250 to be paid at Closing

Lease Rental Agreement

The applicant submitted an executed lease rental agreement, the terms of which are summarized as follows:

Date: September 29, 2010

Premises: A 200 bed RHCF located at 1740 84th Street, Brooklyn, New York

Lessor: KFG Land Two, LLC

Lessee: KFG Operating Two, LLC

Terms: 30 years commencing on the execution of the lease.

Rental: Annual basic rent equal to the sum of Lessor's debt service equal to the HUD mortgage, any other debt service on any other commercial mortgage, mortgage insurance premium paid on Lessor's HUD mortgage in the amount of \$335,254 plus \$78,500, which totals \$413,754.

Provisions: Lessee is responsible for taxes, insurance, utilities and maintenance.

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

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year subsequent to the change in ownership:

	<u>Per Diem</u>	<u>Total</u>
Revenues:		
Medicaid	\$229.10	\$12,980,128
Medicare	429.79	3,363,785
Private Pay	350.23	<u>2,830,712</u>
Total Revenues		\$19,174,625
Expenses:		
Operating	\$234.49	\$16,780,506
Capital	<u>22.39</u>	<u>1,603,244</u>
Total Expenses	\$256.88	18,383,750
Net Income		\$790,875
Utilization: (patient days)		71,563
Occupancy		98.03%

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

- o The capital component of the Medicaid rate is based on the return of and return on equity reimbursement methodology.
- o Expenses include lease rental.
- o Overall utilization is projected at 98.03%, while utilization by payor source is expected as follows:

Medicaid	79%
Medicare	10%
Private	11%
- o Breakeven occupancy is projected at 93.92%.
- o The budget utilization by payor source is based on 2009 historical payor mix.

Capability and Feasibility

There are no project costs associated with this application. The purchase price of \$11,000,000 for the operations will be financed by a taxable HUD loan of \$8,800,000 at an interest rate of 5.25% for thirty years and the remaining \$2,200,000 through proposed owner's equity.

The proposed owner's have already paid \$1,100,000 to be held in escrow from previous equity holdings resulting in \$1,100,000 to be paid at closing. The purchase price of \$6,262,500 for the real estate will also be financed by a taxable HUD loan of \$5,010,000 at an interest rate of 5.25% for thirty years and the remaining \$1,252,500 through proposed owner's equity. A letter of interest has been provided by Housing and Healthcare Finance, who is an FHA LEAN approved lender with the ability and experience to underwrite FHA insured mortgage loans for a range of health related properties.

Working capital requirements are estimated at \$3,064,000, based on two months of first year expenses, of which \$1,532,000 will be satisfied from the proposed members equity and the remaining \$1,532,000 will be satisfied through

a loan from the Housing and Healthcare Finance Agency at 6.25% over five years. A letter of interest has been supplied by the finance company. An affidavit from Bernard Fuchs, which states that he is willing to contribute resources disproportionate to his ownership percentage, has been provided. Presented as BFA Attachment A is the net worth of the proposed members.

The submitted budget indicates that a net income of \$790,875 is projected during the first year following the change in ownership. Presented as BFA Attachment B is the pro forma balance sheet of Bensonhurst Center for Rehabilitation & Healthcare, which indicates positive members' equity of \$3,732,000 as of the first day of operations. It is noted that assets include \$10,691,415 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, the net asset position would be a negative \$6,960,748 from a Medicaid perspective. Also, the real estate entity will have a positive member's equity position of \$1,252,500 as of the first day of operations. The following is noted with respect to the projected first year budget in comparison to the 2009 financials presented in BFA Attachment C:

- Administrative salaries were reduced from \$1,126,000 to \$459,258. The salaries for corporate staff were removed from the projected operating expenses.
- Professional fees are being reduced from \$1,302,453 to \$1,095,492 due to excessive allocations in fiscal services and administrative services.
- Non-medical supplies were reduced from \$964,527 to \$727,833 due to reductions in laundry and linen supplies and housekeeping supplies, which were not significantly higher than expenses at comparable facilities.
- Other direct expenses are being reduced from \$1,576,815 to \$1,184,691. These reductions were the elimination of corporate allocations from the facility's parent entity, SVCMC, which will no longer be applicable with the change in ownership.
- The incremental revenue during the first year is based on increases to the Medicare revenue, not related to increased utilization, but to Medicare case mix. The proposed members of KFG Operating Two, LLC have indicated that their Medicare rates are substantially higher than Holy Family Home's rate experience. Additionally, Medicare's promulgation of the RUGS IV system has resulted in a 17% increase in the average rehabilitation rates for Medicare, compared to the 2010 rate experience.

Presented as BFA Attachment C is a financial summary of Holy Family Home. The facility maintained an average negative working capital position and an average positive net asset position during 2007 through 2009. The applicant incurred an average operating loss of \$946,606 during 2007 through 2009. The applicant has indicated that the reason for the historical losses are the following: corporate allocations from the system that exceeded the facility's revenue, fringe benefits increased from 31.90% to 41% of salaries, and revenues decreased due to a \$26.70 decrease in the facility's Medicaid rate from 2008 to 2009. The facility implemented the following steps to improve operations: reductions in fringe benefits and corporate allocations, and reduction in supplies and purchased services.

Presented as BFA Attachment D is the October 31, 2010 internal financial statement of St. Jerome's Health Services Corporation d/b/a Holy Family Home. The facility had a positive working capital position and a negative net asset position through October 31, 2010. Also, the facility incurred an operating loss of \$2,202,834 through October 31, 2010.

As shown on BFA Attachment E, Smithtown Center for Rehabilitation & Nursing Care had an average positive working capital position and an average positive net asset position, and generated an average net income of \$4,018,546 during the period 2007 through 2009.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Net Worth Statement Of Proposed Members
BFA Attachment B	Pro Forma Balance Sheet, KFG Operating Two, LLC and KFG Land Two, LLC
BFA Attachment C	Financial Summary, Holy Family Home
BFA Attachment D	Internal Financial Statements of Holy Family Home
BFA Attachment E	Financial Summary, Smithtown Center for Rehabilitation & Nursing Care
BFA Attachment F	Establishment Checklist



Public Health and Health Planning Council

Project # 111186-E
Autumn View Health Care Facility, LLC

County: Erie (Hamburg)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: February 14, 2011

Executive Summary

Description

Autumn View Health Care Facility, LLC (Autumn View), an existing 230-bed proprietary residential health care facility (RHCF) with respite care, located at South 4650 Southwestern Boulevard, Hamburg, requests limited co-establishment approval with five of its RHCF affiliates in for the sole purpose of entering into a Master Lease Agreement with their current landlord, Nationwide Health Properties, Inc. The real property, which Autumn View leased for its operations from related entity Autumn View Manor Partnership, was sold on January 12, 2011 to real estate investment trust Nationwide Health Properties, Inc. (NHP).

A long term master lease arrangement is proposed, which obligates each of the six RHCFs to cover any of the group's potential inability to make rent payments. The cross guarantee would provide sustaining support to a facility going through a period of financial difficulty. Under regulation 10 NYCRR 600.9(c) such an agreement requires that the participants have limited co-establishment approval by PHHPC in order to participate in the total gross income or net revenues of an Article 28 facility. The five other RHCFs proposing cross guarantees of lease payments and being concurrently reviewed are as follows:

- CON #111188-E (Brookhaven Health Care Facility)
- CON #111189-E (Garden Gate Health Care Facility)
- CON #111190-E (Harris Hill Nursing Facility)
- CON #111191-E (North Gate Health Care Facility)
- CON #111192-E (Seneca Health Care Center)

The operators of each of the six RHCFs identified above are entering into the Master Lease Agreement solely to provide cross guarantees of each nursing home's lease obligations.

DOH Recommendation
Contingent approval

Need Summary

The lease arrangement provides for cross guarantees that ensure support if any of the facilities in the agreement fall under financial hardship, thus providing a community support system.

Autumn View Health Care Facility had utilization of 96.8%, 97.6%, and 97.2% for 2007, 2008, and 2009, respectively. This exceeded Erie County utilization in each year.

Program Summary

There are no proposed changes in either the program or physical environment of the facility. Autumn View has entered into a consulting, agency and administrative services agreement with The McGuire Group, Inc. The applicant also contracts with McGuire Group Pharmacy, Inc. for medications and medication supplies.

Financial Summary

There are no project costs associated with this application. The Purchase and Sale Agreement for the Real Estate is \$27,807,979, which was paid at the January 2011 closing.

Budget:	<i>Revenues:</i>	\$ 18,580,851
	<i>Expenses:</i>	<u>18,338,321</u>
	<i>Gain/(Loss):</i>	\$ 242,530

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

Architectural Summary

This project is for Establishment action only; therefore' no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA review of this project

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Satisfactory character and competence review for the members who have disclosed interest in Autumn Woods Health Care Facility, LLC (Warren, Michigan). [LTC]
3. Submission of an executed Master Lease Agreement acceptable to the Department of Health. [BFA]
4. Submission of updated budgets, with all assumptions noted, that include the impact of the State's 2011-12 Budget and continues to demonstrate financial feasibility, acceptable to the Department of Health. [BFA]
5. Submission of a photocopy of the finalized and executed master lease agreement, acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Autumn View Health Care Facility, a 230-bed proprietary Residential Health Care Facility (RHCF) located at South 4650 Southwestern Boulevard, Hamburg, 14075 in Erie County is seeking approval to join into one master lease arrangement with 5 other RHCF facilities under Nationwide Health Properties, Inc. (NHP). NHP purchased Autumn View Health Care Facility on January 12, 2011.

Analysis

<i>RHCF Bed Need</i>	<i>Erie County</i>
2016 Projected Need	5,291
Current Beds	6,340
Beds Being Decertified	332
Total Resources	6,008
Unmet Need	- 717

<i>RHCF Utilization</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Autumn View Health Care	96.8%	97.6%	97.2%
Erie County	95.3%	95.3%	96.0%

Regulation 670.3 indicates that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for Erie County. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

Autumn View Health Care Facility the facility exceeds 75% of the annual percentage of Medicaid admissions for Erie County. The facility will be required to continue policies and practices so that the proportion of its annual Medicaid patients admissions is at least 75% of the county planning area Medicaid percentage.

100% of Medicaid admissions at Autumn View Health Care Facility:

2008 - 75.4%
2009 - 36.4%

Erie County 75% of Medicaid Admissions:

2008 - 22.1%
2009 - 11.0%

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Autumn View Health Care Facility	Same
<i>Address</i>	South 4650 Southwestern Boulevard Hamburg, NY 14075	Same
<i>RHCF Capacity</i>	230	230
<i>ADHC Program Capacity</i>	N/A	Same

Type Of Operator	Limited Liability Company	Same
Class Of Operator	Proprietary	Same
Operator	Autumn View Health Care Facility, LLC <u>MEMBERS</u> F. James McGuire, Manager (16.2%) Jacquelyn McGuire Gurney (16.2%) Jeannie Marie McGuire (16.2%) Kathleen McGuire (16.2%) Kelly McGuire (16.2%) Michael McGuire (16.2%) Stephen Mercurio (2.8%)	Same

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn Woods Health Care Facility, LLC (Warren Michigan)	January 1, 2000 to Present

Other Health Related Entities

McGuire Group Pharmacy, Inc.

- INDIVIDUAL BACKGROUND REVIEWS:

Francis James McGuire is the President and CEO of the McGuire Group, a nursing facility managing company located in Buffalo, NY. Mr. McGuire is a licensed nursing home administrator with license inactive, and serves as the managing member for the operating limited liability company. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Jacqueline McGuire Gurney is an attorney in good standing practicing law with the Erie County Family Court. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present

Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Jeannie M. McGuire is the owner of Enlighten Communications Group, a marketing/fundraising and consulting agency located in New York, NY. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Kelly McGuire has been employed as a personal assistant. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Kathleen McGuire is employed as an engineering manager at Northrup Grumman in Baltimore, Maryland. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Michael J. McGuire is self-employed working as an insurance sales agent. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Stephen M. Mercurio is employed as Vice-President of The McGuire Group, the consulting and administrative services company which contracts with the related five nursing homes in Western New York. Mr. McGuire is a registered nurse in good standing, and also holds a nursing home administrator's license, currently in good standing. Mr. Mercurio served as Acting Administrator of Garden Gate Health Care Facility from February 27, 2011 to March 13, 2011. Mr. Mercurio has the following health facility interests:

Residential Health Care Facilities
Autumn View Health Care Facility, LLC
Garden Gate Health Care Facility, LLC
Harris Hill Nursing Facility

March 1, 2003 to Present
March 1, 2003 to Present
January 1, 2007 to Present

Character and Competence – Analysis:

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

The review of operations of Autumn View Health Care Facility, LLC, Brookhaven Health Care Facility, LLC, Harris Hill Nursing Facility and Seneca Health Care Center, LLC results in a conclusion of substantially consistent high level of care since there were no enforcements for the time periods indicated.

A review of the operations of Garden Gate Health Care Facility, LLC for the period reveals that the facility paid a Civil Monetary Penalty of \$4,800 resulting from surveillance findings on July 17, 2008. Deficiencies were found under 10 NYCRR 415.12(h) Quality of Care: Accidents.

The review of operations of Garden Gate Health Care Facility, LLC results in a conclusion of substantially consistent high level of care, since there were no repeat enforcements.

A review of the operations of North Gate Health Care Facility, LLC for the period reveals that the facility paid a federal Civil Monetary Penalty of \$14,625 resulting from surveillance findings on September 30, 2005. Deficiencies were found under F272 Comprehensive Assessment, F 279 Comprehensive Care Plans, and F324 Accidents.

The review of operations of North Gate Health Care Facility, LLC results in a conclusion of a substantially consistent high level of care since there were no repeat enforcements.

The review of the operations of Autumn Woods Health Care Facility, LLC (Warren, Michigan) is ongoing and a conclusion is premature at this time.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Purchase and Sale Agreement

The applicant has submitted an executed purchase and sale agreement for the purchase of the real property interests of Autumn View Health Care Facility, the terms of which are summarized below:

<i>Date:</i>	January 12, 2011
<i>Seller:</i>	Autumn View Manor Partnership
<i>Purchasers:</i>	Nationwide Health Properties, Inc.
<i>Assets Purchased:</i>	The Real Property
<i>*Purchase Price:</i>	\$125,000,000
<i>Payment of Purchase Price:</i>	\$600,000 in escrow with remaining at close.

* Purchase price by facilities are as follows:

<u>Name of RHCF</u>	<u>Purchase Price</u>
Autumn View Manor Partnership	\$27,807,979
Brookhaven Partnership	\$17,184,038
Garden Gate Manor Partnership	\$13,457,516
Harris Hill Nursing Facility, LLC	\$21,151,496
North Gate Manor Partnership	\$11,678,576
Seneca (McGuire Manor, Inc.)	\$ 8,872,711
Autumn Woods (Friendship Associates)	\$24,847,684

Autumn Woods Residential Health is located in Warren, Michigan, and will not be included in the Master Lease Agreement.

Master Lease Agreement

The applicant will continue to occupy the premises under a draft master lease agreement, the terms of which are summarized below:

Premises: A 230 bed nursing home located at S. 4650 Southwestern Blvd. in Hamburg, New York.
Landlord: Nationwide Health Properties, Inc.
Tenant: Autumn View Health Care Facility, LLC
Term: Effective date to January 31, 2031 with three separate five year renewals.
Rental: \$2,635,000/year (\$219,583.33 per month) for the first year with a 2% annual increase in rent.
Provisions: The tenant will be responsible for maintenance, real estate taxes, insurance and utilities.

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year subsequent to change in ownership:

	<u>Year One</u>
Revenues:	
Medicaid	\$6,325,765
Medicare	3,707,660
Private Pay/Other	<u>8,547,426</u>
Total Revenues	\$18,580,851
Expenses:	
Operating	\$15,412,908
Interest	24,426
Depreciation and Rent	<u>2,900,987</u>
Total Expenses	\$18,338,321
Net Income	<u>\$242,530</u>
Utilization: (patient days)	
Occupancy	95.0%

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

- Expenses include Master Lease rental.
- Proposed 2011-2012 budget changes include the applicant's estimate of: elimination of the return on equity and the return of equity, 1.2% Increase in Cash Receipt Assessment Rate, Bed hold payments eliminated, and the elimination of the 1.7% 2011 Trend factor.
- Pending impact of the July 2010 CMI changes on the Medicaid rate was estimated at 70% of total projected payment increase.
- Overall utilization is projected at 95.0%, which is consistent with 2010, while utilization by payor source is expected as follows:

Medicaid	55.1%
Medicare	24.2%
Private Pay	20.7%

- Breakeven occupancy is projected at 93.76%.

Capability and Feasibility

There is no project cost associated with this application.

Working capital requirements will be minimal, since this is for a change in membership interests in the realty only.

BFA Attachment B presents the pro-forma balance sheet of Autumn View Health Care Facility, LLC. As shown, the facility will initiate operation with \$ 5,658,449 in equity. It is noted that assets include \$910,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, equity would be reduced to \$4,748,449.

The submitted budget indicates a net income of \$242,530. Projected income includes the applicant's estimated impact of the 2011-2012 State Budget changes to RHCF Medicaid rates. Presented as BFA Attachment C, is the summary of the McGuire Group budgets.

As shown on BFA Attachment A, Autumn View Health Care Facility had an average positive working capital position of \$1,345,089 in 2008-2009 and an average positive net equity position of \$4,197,685, and maintained an average net profit of \$1,591,047 for 2008-2010. Autumn View Health Care Facility had a negative working capital position in 2010 due to the reclassification of all mortgage debt as a current liability in 2010 and due to the Real Estate sale to NHP in January of 2011.

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

Recommendation

From a financial perspective, contingent approval is recommended.

<h2>Attachments</h2>

- | | |
|------------------|---|
| BFA Attachment A | Financial Summary- Autumn View Health Care Facility |
| BFA Attachment B | Pro Forma Balance Sheet |
| BFA Attachment C | Summary of McGuire Group Budgets |
| BFA Attachment D | Establishment Checklist |



Public Health and Health Planning Council

Project # 111188-E
Brookhaven Health Care Facility, LLC

County: Suffolk (Patchogue)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: February 14, 2011

Executive Summary

Description

Brookhaven Health Care Facility (Brookhaven Health), an existing 160-bed proprietary LLC residential health care facility (RHCF) with respite care, located at 801 Gazzola Boulevard, Patchogue, requests limited co-establishment approval with five of its RHCF affiliates in for the sole purpose of entering into a Master Lease Agreement with their current landlord, Nationwide Health Properties, Inc. The real property, which Brookhaven Health leased for its operations from related entity Brookhaven Partnership, was sold on January 12, 2011 to real estate investment trust Nationwide Health Properties, Inc. (NHP).

A long term master lease arrangement is proposed, which obligates each of the six RHCFs to cover any of the group's potential inability to make rent payments. The cross guarantee would provide sustaining support to a facility going through a period of financial difficulty. Under regulation 10 NYCRR 600.9(c) such an agreement requires that the participants have limited co-establishment approval by PHHPC in order to participate in the total gross income or net revenues of an Article 28 facility. The five other RHCFs proposing cross guarantees of lease payments and being concurrently reviewed are as follows:

- CON #111186-E (Autumn View Care Facility)
- CON #111189-E (Garden Gate Health Care Facility)
- CON #111190-E (Harris Hill Nursing Facility)
- CON #111191-E (North Gate Health Care Facility)
- CON #111192-E (Seneca Health Care Center)

The operators of each of the six RHCFs identified above are entering into the Master Lease Agreement solely to provide cross guarantees of each nursing home's lease obligations.

DOH Recommendation
Contingent approval.

Need Summary

The lease arrangement provides for cross guarantees that ensure support if any of the facilities in the agreement fall under financial hardship, thus providing a community support system.

Brookhaven Health Care Facility, LLC had utilization of 97.0%, 98.4%, and 97.7% for 2007, 2008, and 2009, respectively. This exceeded Suffolk County utilization in each year.

Program Summary

There are no proposed changes in either the program or physical environment of the facility. Brookhaven Health has entered into a consulting, agency and administrative services agreement with The McGuire Group, Inc. The applicant also contracts with McGuire Group Pharmacy, Inc. for medications and medication supplies.

Financial Summary

There are no project costs associated with this application. The Purchase and Sale Agreement for the Real Estate is \$17,184,038, which was paid at the January 2011 closing.

Budget:	Revenues:	\$ 23,581,644
	Expenses:	<u>21,583,977</u>
	Gain/(Loss):	\$ 1,997,667

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

Architectural Summary

This project is for Establishment action only, therefore; no Architectural Review is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Satisfactory character and competence review for the members who have disclosed interest in Autumn Woods Health Care Facility, LLC (Warren, Michigan). [LTC]
3. Submission of an executed Master Lease Agreement acceptable to the Department of Health. [BFA, CSL]
4. Submission of a photocopy of the applicant's executed operating agreement and any subsequent amendments or restatements thereof, acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Brookhaven Health Care Facility, LLC, a 160 bed proprietary Residential Health Care Facility (RHCF) located at 801 Gazzola Boulevard, Patchogue, 11772 in Suffolk County, is seeking approval to join into one master lease arrangement with 5 other RHCF facilities under Nationwide Health Properties Inc. (NHP). NHP purchased Autumn View Health Care Facility on January 12, 2011.

Analysis

<u><i>RHCF Bed Need</i></u>	<u><i>Long Island</i></u>
2016 Projected Need	16,962
Current Beds	16,000
Beds Being Decertified	391
Total Resources	15,609
Unmet Need	1,353

<u><i>RHCF Utilization</i></u>	<u><i>2007</i></u>	<u><i>2008</i></u>	<u><i>2009</i></u>
Brookhaven Health Care Facility	97.0%	98.4%	97.7%
Suffolk County	94.0%	93.3%	94.7%

Regulation 670.3 indicates that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for Suffolk County. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

Brookhaven Health Care Facility, LLC will be required to continue policies and practices so that the proportion of its annual Medicaid patients admissions is at least 75% of the planning area percentage of health Systems Agency percentage.

Brookhaven Health Care Facility, LLC of facility Medicaid Admissions:

2008 – 65.4%
2009 – 32.0 %

Suffolk County 75% of facility Medicaid Admissions:

2008 – 22.0%
2009 – 11.1%

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Brookhaven Health Care Facility	Same
<i>Address</i>	801 Gazzola Boulevard Patchogue, NY 11772	Same
<i>RHCF Capacity</i>	160	Same

<i>ADHC Program Capacity</i>	N/A	Same
<i>Type Of Operator</i>	Limited Liability Company	Same
<i>Class Of Operator</i>	Proprietary	Same
<i>Operator</i>	Brookhaven Health Care Facility, LLC <u>MEMBERS</u> F. James McGuire, Manager (13.335%) Jacquelyn McGuire Gurney (13.335%) Jeannie Marie McGuire (13.335%) Kathleen McGuire (13.335%) Kelly McGuire (13.335%) Michael McGuire (13.335%) Lindsay J. Smith (9.995%) Jamie L. Smith (9.995%)	Same

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn Woods Health Care Facility, LLC (Warren Michigan)	January 1, 2000 to Present

Other Health Related Entities

McGuire Group Pharmacy, Inc.

- INDIVIDUAL BACKGROUND REVIEWS:

Francis James McGuire is the President and CEO of the McGuire Group, a nursing facility managing company located in Buffalo, NY. Mr. McGuire is a licensed nursing home administrator with license inactive, and serves as the managing member for the operating limited liability company. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Jacqueline McGuire Gurney is an attorney in good standing practicing law with the Erie County Family Court. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present

Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Jeannie M. McGuire is the owner of Enlighten Communications Group, a marketing/fundraising and consulting agency located in New York, NY. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Kelly McGuire has been employed as a personal assistant. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Kathleen McGuire is employed as an engineering manager at Northrup Grumman in Baltimore, Maryland. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Michael J. McGuire is self-employed working as an insurance sales agent. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Lindsay J. Smith is an attorney in good standing practicing law with Cravath Swaine & Moore LLP in New York. Ms. Smith has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2010 to Present

Jamie L. Smith is a Certified Public Accountant in good standing, employed by KPMG, an accounting firm, as a Senior Associate at its office in Chicago, Illinois. Mr. Smith has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2010 to Present

Character and Competence – Analysis:

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

The review of operations of Autumn View Health Care Facility, LLC, Brookhaven Health Care Facility, LLC, Harris Hill Nursing Facility and Seneca Health Care Center, LLC results in a conclusion of substantially consistent high level of care since there were no enforcements for the time periods indicated.

A review of the operations of Garden Gate Health Care Facility, LLC for the period reveals that the facility paid a Civil Monetary Penalty of \$4,800 resulting from surveillance findings on July 17, 2008. Deficiencies were found under 10 NYCRR 415.12(h) Quality of Care: Accidents.

The review of operations of Garden Gate Health Care Facility, LLC results in a conclusion of substantially consistent high level of care since there were no repeat enforcements.

A review of the operations of North Gate Health Care Facility, LLC for the period reveals that the facility paid a federal Civil Monetary Penalty of \$14,625 resulting from surveillance findings on September 30, 2005. Deficiencies were found under F272 Comprehensive Assessment, F 279 Comprehensive Care Plans, and F324 Accidents.

The review of operations of North Gate Health Care Facility, LLC results in a conclusion of a substantially consistent high level of cares since there were no repeat enforcements.

The review of the operations of Autumn Woods Health Care Facility, LLC (Warren, Michigan) is ongoing and a conclusion is premature at this time.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Purchase and Sale Agreement

The applicant has submitted an executed purchase and sale agreement for the purchase of the real property interests of Brookhaven Health Care Facility, the terms of which are summarized below:

<i>Date:</i>	January 12, 2011
<i>Seller:</i>	Brookhaven Partnership
<i>Purchasers:</i>	Nationwide Health Properties, Inc.
<i>Assets Purchased:</i>	The Real Property
<i>*Purchase Price:</i>	\$125,000,000
<i>Payment of Purchase Price:</i>	\$600,000 in escrow with remaining at close.

* Purchase price by facilities are as follows:

<u>Name of RHCF</u>	<u>Purchase Price</u>
Autumn View Manor Partnership	\$27,807,979
Brookhaven Partnership	\$17,184,038
Garden Gate Manor Partnership	\$13,457,516

Harris Hill Nursing Facility, LLC	\$21,151,496
North Gate Manor Partnership	\$11,678,576
Seneca (McGuire Manor, Inc.)	\$ 8,872,711
Autumn Woods (Friendship Associates)	\$24,847,684

Autumn Woods Residential Health is located in Warren, Michigan, and will not be included in the Master Lease Agreement.

Master Lease Agreement

The applicant will continue to occupy the premises under a draft master lease agreement, the terms of which are summarized below:

<i>Premises:</i>	A 160 bed nursing home located at 801 Gazzola Blvd. in Patchogue, New York
<i>Landlord:</i>	Nationwide Health Properties, Inc.
<i>Tenant:</i>	Brookhaven Health Care Facility, LLC
<i>Term:</i>	Effective date to January 31, 2031 with three separate five year renewals.
<i>Rental:</i>	\$1,629,000/year (\$135,750 per month) for the first year with a 2% annual increase in rent.
<i>Provisions:</i>	The tenant will be responsible for maintenance, real estate taxes, insurance and utilities.

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year subsequent to change in ownership:

	<u>Total</u>
Revenues:	
Medicaid	\$9,055,604
Medicare	9,251,183
Private Pay/Other	<u>5,274,857</u>
Total Revenues	\$23,581,644
Expenses:	
Operating	\$19,762,414
Depreciation and Rent	<u>1,821,563</u>
Total Expenses	\$21,583,977
Net Income	<u>\$1,997,667</u>
Utilization: (patient days)	58,100
Occupancy	99.5%

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

- Expenses include Master Lease rental.
- Proposed 2011-2012 budget changes include the applicant's estimate of: elimination of the return on equity and the return of equity, 1.2% Increase in Cash Receipt Assessment Rate, Bed hold payments eliminated, and the elimination of the 1.7% 2011 Trend factor.
- Pending impact of the July 2010 CMI changes on the Medicaid rate was estimated at 70% of total projected payment increase.

- Overall utilization is projected at 99.5%, which is consistent with 2010, while utilization by payor source is expected as follows:

Medicaid	57.82%
Medicare	31.38%
Private Pay	10.80%

- Breakeven occupancy is projected at 91.06%.

Capability and Feasibility

There is no project cost associated with this application.

BFA Attachment B presents the pro-forma balance sheet of Brookhaven Health Care Facility, LLC. As shown, the facility will initiate operation with \$ 3,603,365 in equity. It is noted that assets include \$130,423 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, equity would be reduced to \$3,472,942.

The submitted budget indicates a net income of \$1,997,667. Projected income includes the applicant's estimated impact of the 2011-2012 State Budget changes to RHCF Medicaid rates. The applicant's budget appears reasonable. Presented as BFA Attachment C, is the summary of the McGuire Group budgets.

As shown on BFA Attachment A, Brookhaven Health Care Facility had an average positive working capital position of \$2,945,100, an average positive net equity position of \$3,962,357 and maintained an average net profit of \$956,833 for 2008-2010.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary- Brookhaven Health Care Facility
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Summary of McGuire Group Budgets
BFA Attachment D	Establishment Checklist



Public Health and Health Planning Council

Project # 111189-E
Garden Gate Health Care Facility, LLC

County: Erie (Cheektowaga)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: February 14, 2011

Executive Summary

Description

Garden Gate Health Care Facility (Garden Gate), an existing 184-bed for-profit residential health care facility (RHCF) with respite care, located at 2365 Union Road, Cheektowaga, requests limited co-establishment approval with five of its RHCF affiliates in for the sole purpose of entering into a Master Lease Agreement with their current landlord, Nationwide Health Properties, Inc. The real property, which Garden Gate leased for its operations from related entity Garden Gate Manor Partnership, was sold on January 12, 2011 to real estate investment trust Nationwide Health Properties, Inc. (NHP).

A long term master lease arrangement is proposed, which obligates each of the six RHCFs to cover any of the group's potential inability to make rent payments. The cross guarantee would provide sustaining support to a facility going through a period of financial difficulty. Under regulation 10 NYCRR 600.9(c) such an agreement requires that the participants have limited co-establishment approval by PHHPC in order to participate in the total gross income or net revenues of an Article 28 facility. The five other RHCFs proposing cross guarantees of lease payments and being concurrently reviewed are as follows:

- CON #111186-E (Autumn View Health Care Facility)
- CON #111188-E (Brookhaven Health Care Facility)
- CON #111190-E (Harris Hill Nursing Facility)
- CON #111191-E (North Gate Health Care Facility)
- CON #111192-E (Seneca Health Care Center)

The operators of each of the six RHCFs identified above are entering into the Master Lease Agreement solely to provide cross guarantees of each nursing home's lease obligations.

DOH Recommendation
Contingent approval

Need Summary

The lease arrangement provides for cross guarantees that ensure support if any of the facilities in the agreement fall under financial hardship, thus providing a community support system.

Garden Gate Health Care Facility had utilization of 98.0%, 97.6%, and 98.2% for 2007, 2008, and 2009, respectively. This exceeded Erie County utilization in each year.

Program Summary

There are no proposed changes in either the program or physical environment of the facility. Garden Gate has entered into a consulting, agency and administrative services agreement with The McGuire Group, Inc. The applicant also contracts with McGuire Group Pharmacy, Inc. for medications and medication supplies.

Financial Summary

There are no project costs associated with this application. The Purchase and Sale Agreement for the Real Estate is \$13,457,516, which was paid at the January 2011 closing.

Budget:	Revenues:	\$ 17,093,875
	Expenses:	<u>16,150,318</u>
	Gain/(Loss):	\$ 943,557

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Satisfactory character and competence review for the members who have disclosed interest in Autumn Woods Health Care Facility, LLC (Warren, Michigan). [LTC]
3. Submission of an executed Master Lease Agreement acceptable to the Department of Health. [BFA, CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Garden Gate Health Care Facility, a 184-bed proprietary Residential Health Care Facility (RHCF), located at 2365 Union Road, Cheektowaga, New York, 14227 in Erie County is seeking approval to join into one master lease arrangement with 5 other RHCF facilities under Nationwide Health Properties Inc. (NHP). NHP purchased Garden Gate Health Care Facility on January 12, 2011.

Analysis

<u>RHCF Bed Need</u>	<u>Erie County</u>
2016 Projected Need	5,291
Current Beds	6,340
Beds Being Decertified	332
Total Resources	6,008
Unmet Need	- 717

<u>RHCF Utilization</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Garden Gate Health Care	98.0%	97.6%	98.2%
Erie County	95.3%	95.3%	96.0%

Regulation 670.3 indicates that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for Erie County. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

Garden Gate Health Care Facility the facility exceeds 75% of the annual percentage of Medicaid Admissions for Erie County will be required to continue policies and practices so that the proportion of its annual Medicaid patients admissions is at least 75% of the county planning area Medicaid percentage.

Garden Gate Health Care Facility 100% of Medicaid Admissions:

2008 - 56.8%
2009 - 29.6%

Erie County 75% of Medicaid Admissions:

2008 - 22.1%
2009 - 11.0%

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Garden Gate Health Care Facility	Same
<i>Address</i>	2365 Union Road Cheektowaga, NY 14227	Same
<i>RHCF Capacity</i>	184	Same

<i>ADHC Program Capacity</i>	N/A	Same
<i>Type Of Operator</i>	Limited Liability Company	Same
<i>Class Of Operator</i>	Proprietary	Same
<i>Operator</i>	Garden Gate Health Care Facility, LLC <u>MEMBERS</u> F. James McGuire, Manager (16.233%) Jacquelyn McGuire Gurney (16.233%) Jeannie Marie McGuire (16.233%) Kathleen McGuire (16.233%) Kelly McGuire (16.233%) Michael McGuire (16.233%) Stephen Mercurio (2.600%)	Same

Character and Competence

• FACILITIES REVIEWED:

Residential Health Care Facilities

Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn Woods Health Care Facility, LLC (Warren Michigan)	January 1, 2000 to Present

Other Health Related Entities

McGuire Group Pharmacy, Inc.

• INDIVIDUAL BACKGROUND REVIEWS:

Francis James McGuire is the President and CEO of the McGuire Group, a nursing facility managing company located in Buffalo, NY. Mr. McGuire is a licensed nursing home administrator with license inactive, and serves as the managing member for the operating limited liability company. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Jacqueline McGuire Gurney is an attorney in good standing practicing law with the Erie County Family Court. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present

Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Jeannie M. McGuire is the owner of Enlighten Communications Group, a marketing/fundraising and consulting agency located in New York, NY. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Kelly McGuire has been employed as a personal assistant. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Kathleen McGuire is employed as an engineering manager at Northrup Grumman in Baltimore, Maryland. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Michael J. McGuire is self-employed working as an insurance sales agent. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Stephen M. Mercurio is employed as Vice-President of The McGuire Group, the consulting and administrative services company which contracts with the related five nursing homes in Western New York. Mr. McGuire is a registered nurse in good standing, and also holds a nursing home administrator's license, currently in good standing. Mr. Mercurio served as Acting Administrator of Garden Gate Health Care Facility from February 27, 2011 to March 13, 2011. Mr. Mercurio has the following health facility interests:

Residential Health Care Facilities
Autumn View Health Care Facility, LLC
Garden Gate Health Care Facility, LLC
Harris Hill Nursing Facility

March 1, 2003 to Present
March 1, 2003 to Present
January 1, 2007 to Present

Character and Competence – Analysis:

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

The review of operations of Autumn View Health Care Facility, LLC, Brookhaven Health Care Facility, LLC, Harris Hill Nursing Facility and Seneca Health Care Center, LLC results in a conclusion of substantially consistent high level of care since there were no enforcements for the time periods indicated.

A review of the operations of Garden Gate Health Care Facility, LLC for the period reveals that the facility paid a Civil Monetary Penalty of \$4,800 resulting from surveillance findings on July 17, 2008. Deficiencies were found under 10 NYCRR 415.12(h) Quality of Care: Accidents.

The review of operations of Garden Gate Health Care Facility, LLC results in a conclusion of substantially consistent high level of care since there were no repeat enforcements.

A review of the operations of North Gate Health Care Facility, LLC for the period reveals that the facility paid a federal Civil Monetary Penalty of \$14,625 resulting from surveillance findings on September 30, 2005. Deficiencies were found under F272 Comprehensive Assessment, F 279 Comprehensive Care Plans, and F324 Accidents.

The review of operations of North Gate Health Care Facility, LLC results in a conclusion of a substantially consistent high level of cares since there were no repeat enforcements.

The review of the operations of Autumn Woods Health Care Facility, LLC (Warren, Michigan) is ongoing and a conclusion is premature at this time.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Purchase and Sale Agreement

The applicant has submitted an executed purchase and sale agreement for the purchase of the real property interests of Brookhaven Health Care Facility, the terms of which are summarized below:

<i>Date:</i>	January 12, 2011
<i>Seller:</i>	Garden Gate Manor Partnership
<i>Purchasers:</i>	Nationwide Health Properties, Inc.
<i>Assets Purchased:</i>	The Real Property
<i>*Purchase Price:</i>	\$125,000,000
<i>Payment of Purchase Price:</i>	\$600,000 in escrow with remaining at close.

* Purchase price by facilities are as follows:

<u>Name of RHCF</u>	<u>Purchase Price</u>
Autumn View Manor Partnership	\$27,807,979
Brookhaven Partnership	\$17,184,038
Garden Gate Manor Partnership	\$13,457,516
Harris Hill Nursing Facility, LLC	\$21,151,496
North Gate Manor Partnership	\$11,678,576
Seneca (McGuire Manor, Inc.)	\$ 8,872,711
Autumn Woods (Friendship Associates)	\$24,847,684

Autumn Woods Residential Health is located in Warren, Michigan and will not be included in the Master Lease Agreement.

Master Lease Agreement

The applicant will continue to occupy the premises under a draft master lease agreement, the terms of which are summarized below:

- Premises:* A 184 bed nursing home located at 2365 Union Rd. in Cheektowaga, New York
- Landlord:* Nationwide Health Properties, Inc.
- Tenant:* Garden Gate Health Care Facility, LLC
- Term:* Effective date to January 31, 2031 with three separate five year renewals.
- Rental:* \$1,276,000/year (\$106,333.33 per month) for the first year with a 2% annual increase in rent.
- Provisions:* The tenant will be responsible for maintenance, real estate taxes, insurance and utilities.

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year subsequent to change in ownership:

	<u>Total</u>
Revenues:	
Medicaid	\$7,762,038
Medicare	3,491,435
Private Pay/Other	<u>5,840,402</u>
Total Revenues	\$17,093,875
Expenses:	
Operating	\$14,562,740
Interest	1,346
Depreciation and Rent	<u>1,586,232</u>
Total Expenses	\$16,150,318
Net Income	<u>\$ 943,557</u>
Utilization: (patient days)	66,287
Occupancy	98.7%

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

- Expenses include Master Lease rental.
- Proposed 2011-2012 budget changes include the applicant's estimate of: elimination of the return on equity and the return of equity, 1.2% Increase in Cash Receipt Assessment Rate, Bed hold payments eliminated, and the elimination of the 1.7% 2011 Trend factor.
- Pending impact of the July 2010 CMI changes on the Medicaid rate was estimated at 70% of total projected payment increase.
- Overall utilization is projected at 98.7%, which is consistent with 2010, while utilization by payor source is expected as follows:

Medicaid	65.92%
Medicare	20.91%
Private Pay	13.17%

- Breakeven occupancy is projected at 93.25%.

Capability and Feasibility

There is no project cost associated with this application.

BFA Attachment B presents the pro-forma balance sheet of Garden Gate Health Care Facility, LLC. As shown, the facility will initiate operation with \$ 3,954,835 in equity. It is noted that assets include \$325,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, equity would be reduced to \$3,629,835.

The submitted budget indicates a net income of \$943,557. Projected income includes the applicant's estimated impact of the 2011-2012 State Budget changes to RHCF Medicaid rates. The applicant's budget appears reasonable. Presented as BFA Attachment C, is the summary of the McGuire Group budgets.

As shown on BFA Attachment A, Garden Gate Health Care Facility had an average positive working capital position of \$1,300,110 in 2008-2009 and an average positive net equity position of \$4,491,518 and maintained an average net profit of \$1,040,134 for 2008-2010. Garden Gate Health Care Facility had negative working capital in 2010 due to the reclassification of all mortgage debt as a current liability in 2010 due to the Real Estate sale to NHP in January of 2011.

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

Recommendation

From a financial perspective, contingent approval is recommended.

<h2>Attachments</h2>

- | | |
|------------------|---|
| BFA Attachment A | Financial Summary- Garden Gate Health Care Facility |
| BFA Attachment B | Pro-Forma Balance Sheet |
| BFA Attachment C | Summary of McGuire Group Budgets |
| BFA Attachment D | Establishment Checklist |



Public Health and Health Planning Council

Project # 111190-E
Harris Hill Nursing Facility, LLC

County: Erie (Williamsville)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: February 14, 2011

Executive Summary

Description

Harris Hill Nursing Facility (Harris Hill), an existing 192-bed proprietary LLC residential health care facility (RHCF) with respite care, located at 2699 Wehrle Drive, Williamsville, requests limited co-establishment approval with five of its RHCF affiliates in for the sole purpose of entering into a Master Lease Agreement with their current landlord, Nationwide Health Properties, Inc. The real property, which Harris Hill owned for its operations, was sold on January 12, 2011 to real estate investment trust Nationwide Health Properties, Inc. (NHP).

A long term master lease arrangement is proposed, which obligates each of the six RHCFs to cover any of the group's potential inability to make rent payments. The cross guarantee would provide sustaining support to a facility going through a period of financial difficulty. Under regulation 10 NYCRR 600.9(c) such an agreement requires that the participants have limited co-establishment approval by PHHPC in order to participate in the total gross income or net revenues of an Article 28 facility. The five other RHCFs proposing cross guarantees of lease payments and being concurrently reviewed are as follows:

- CON #111186-E (*Autumn View Health Care Facility*)
- CON #111188-E (*Brookhaven Health Care Facility*)
- CON #111189-E (*Garden Gate Health Care Facility*)
- CON #111191-E (*North Gate Health Care Facility*)
- CON #111192-E (*Seneca Health Care Center*)

The operators of each of the six RHCFs identified above are entering into the Master Lease Agreement solely to provide cross guarantees of each nursing home's lease obligations.

DOH Recommendation
Contingent approval

Need Summary

The lease arrangement provides for cross guarantees that ensure support if any of the facilities in the agreement fall under financial hardship, thus providing a community support system.

Harris Hill Nursing Home had utilization of 97.0%, 98.5%, and 98.1% for 2007, 2008, and 2009, respectively. This exceeded Erie County utilization in each year.

Program Summary

There are no proposed changes in either the program or physical environment of the facility. Harris Hill Nursing Facility, LLC has entered into a consulting, agency and administrative services agreement with The McGuire Group, Inc. The applicant also contracts with McGuire Group Pharmacy, Inc. for medications and medication supplies.

Financial Summary

There are no project costs associated with this application. The Purchase and Sale Agreement for the Real Estate is \$21,151,496, which was paid at the January 2011 closing.

Budget:	<i>Revenues:</i>	\$ 17,590,378
	<i>Expenses:</i>	<u>15,859,646</u>
	<i>Gain/(Loss):</i>	\$ 1,730,732

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Satisfactory character and competence review for the members who have disclosed interest in Autumn Woods Health Care Facility, LLC (Warren, Michigan). [LTC]
3. Submission of an executed Master Lease Agreement acceptable to the Department of Health. [BFA, CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Harris Hill Nursing Facility, a 192 bed proprietary Residential Health Care Facility (RHCF), located at 2699 Wehrle Drive, Williamsville, New York, 14221 in Erie County, is seeking approval to join into one master lease arrangement with 5 other RHCF facilities under Nationwide Health Properties Inc. (NHP). NHP purchased Autumn View Health Care Facility on January 12, 2011.

Analysis

<i>RHCF Bed Need</i>	<i>Erie County</i>
2016 Projected Need	5,291
Current Beds	6,340
Beds Being Decertified	332
Total Resources	6,008
Unmet Need	- 717

<i>RHCF Utilization</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Harris Hill Nursing Facility	97.0%	98.5%	98.1%
Erie County	95.3%	95.3%	96.0%

Regulation 670.3 indicates that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for Erie County. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

Harris Hill Nursing Facility will be required to continue policies and practices so that the proportion of its annual Medicaid patient's admissions is at least 75% of the planning area percentage of health Systems Agency percentage.

Harris Hill Nursing Home 100% of Medicaid Admissions:

2008 – 88.3%
2009 – 44.4%

Erie County 75% of Medicaid Admissions

2008 – 22.1%
2009 – 11.0%

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Harris Hill Nursing Facility	Same
<i>Address</i>	2699 Wehrle Road Williamsville, NY 14421	Same
<i>RHCF Capacity</i>	192	Same
<i>ADHC Program Capacity</i>	N/A	Same
<i>Type Of Operator</i>	Limited Liability Company	Same

<i>Class Of Operator</i>	Proprietary	Same
<i>Operator</i>	Harris Hill Nursing Facility, LLC	Same
	MEMBERS	
	F. James McGuire, Manager (13.73%)	
	Jacquelyn McGuire Gurney (13.73%)	
	Jeannie Marie McGuire (13.73%)	
	Kathleen McGuire (13.73%)	
	Kelly McGuire (13.73%)	
	Michael McGuire (13.73%)	
	Stephen Mercurio (3.10%)	
	Lindsay J. Smith (7.27%)	
	Jamie L. Smith (7.27%)	

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn Woods Health Care Facility, LLC (Warren Michigan)	January 1, 2000 to Present

Other Health Related Entities

McGuire Group Pharmacy, Inc.

- INDIVIDUAL BACKGROUND REVIEWS:

Francis James McGuire is the President and CEO of the McGuire Group, a nursing facility managing company located in Buffalo, NY. Mr. McGuire is a licensed nursing home administrator with license inactive, and serves as the managing member for the operating limited liability company. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Jacqueline McGuire Gurney is an attorney in good standing practicing law with the Erie County Family Court. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present

Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Jeannie M. McGuire is the owner of Enlighten Communications Group, a marketing/fundraising and consulting agency located in New York, NY. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Kelly McGuire has been employed as a personal assistant. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Kathleen McGuire is employed as an engineering manager at Northrup Grumman in Baltimore, Maryland. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Michael J. McGuire is self-employed working as an insurance sales agent. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC January 1, 2004 to Present
North Gate Health Care Facility, LLC March 1, 2003 to Present
Seneca Health Care Center, LLC March 1, 2003 to Present
Autumn View Health Care Facility, LLC March 1, 2003 to Present
Garden Gate Health Care Facility, LLC March 1, 2003 to Present
Harris Hill Nursing Facility January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Stephen M. Mercurio is employed as Vice-President of The McGuire Group, the consulting and administrative services company which contracts with the related five nursing homes in Western New York. Mr. McGuire is a registered nurse in good standing, and also holds a nursing home administrator's license, currently in good standing. Mr. Mercurio served as Acting Administrator of Garden Gate Health Care Facility from February 27, 2011 to March 13, 2011. Mr. Mercurio has the following health facility interests:

Residential Health Care Facilities

Autumn View Health Care Facility, LLC
Garden Gate Health Care Facility, LLC
Harris Hill Nursing Facility

March 1, 2003 to Present
March 1, 2003 to Present
January 1, 2007 to Present

Lindsay J. Smith is an attorney in good standing practicing law with Cravath Swaine & Moore LLP in New York. Ms. Smith has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC
Harris Hill Nursing Facility
Autumn Woods Health Care Facility, LLC (Warren, Michigan)

January 1, 2004 to Present
January 1, 2006 to Present
January 1, 2010 to Present

Jamie L. Smith is a Certified Public Accountant in good standing, employed by KPMG, an accounting firm, as a Senior Associate at its office in Chicago, Illinois. Mr. Smith has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC
Harris Hill Nursing Facility
Autumn Woods Health Care Facility, LLC (Warren, Michigan)

January 1, 2004 to Present
January 1, 2006 to Present
January 1, 2010 to Present

Character and Competence – Analysis:

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

The review of operations of Autumn View Health Care Facility, LLC, Brookhaven Health Care Facility, LLC, Harris Hill Nursing Facility and Seneca Health Care Center, LLC results in a conclusion of substantially consistent high level of care since there were no enforcements for the time periods indicated.

A review of the operations of Garden Gate Health Care Facility, LLC for the period reveals that the facility paid a Civil Monetary Penalty of \$4,800 resulting from surveillance findings on July 17, 2008. Deficiencies were found under 10 NYCRR 415.12(h) Quality of Care: Accidents.

The review of operations of Garden Gate Health Care Facility, LLC results in a conclusion of substantially consistent high level of care since there were no repeat enforcements.

A review of the operations of North Gate Health Care Facility, LLC for the period reveals that the facility paid a federal Civil Monetary Penalty of \$14,625 resulting from surveillance findings on September 30, 2005. Deficiencies were found under F272 Comprehensive Assessment, F 279 Comprehensive Care Plans, and F324 Accidents.

The review of operations of North Gate Health Care Facility, LLC results in a conclusion of a substantially consistent high level of cares since there were no repeat enforcements.

The review of the operations of Autumn Woods Health Care Facility, LLC (Warren, Michigan) is ongoing and a conclusion is premature at this time.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Purchase and Sale Agreement

The applicant has submitted an executed purchase and sale agreement for the purchase of the real property interests of Harris Hill Nursing Facility, the terms of which are summarized below:

Date: January 12, 2011
Seller: Harris Hill Nursing Facility, LLC
Purchasers: Nationwide Health Properties, Inc.
Assets Purchased: The Real Property
**Purchase Price:* \$125,000,000
Payment of Purchase Price: \$600,000 in escrow with remaining at close.

* Purchase price by facilities are as follows:

<u>Name of RHCF</u>	<u>Purchase Price</u>
Autumn View Manor Partnership	\$27,807,979
Brookhaven Partnership	\$17,184,038
Garden Gate Manor Partnership	\$13,457,516
Harris Hill Nursing Facility, LLC	\$21,151,496
North Gate Manor Partnership	\$11,678,576
Seneca (McGuire Manor, Inc.)	\$ 8,872,711
Autumn Woods (Friendship Associates)	\$24,847,684

Autumn Woods Residential Health is located in Warren, Michigan and will not be included in the Master Lease Agreement.

Master Lease Agreement

The applicant will continue to occupy the premises under a draft master lease agreement, the terms of which are summarized below:

Premises: A 192 bed nursing home located at 2699 Wehrle Drive in Williamsville, New York
Landlord: Nationwide Health Properties, Inc.
Tenant: Harris Hill Nursing Facility, LLC
Term: Effective date to January 31, 2031 with three separate five year renewals.
Rental: \$2,005,000/year (\$167,083.33 per month) for the first year with a 2% annual increase in rent.
Provisions: The tenant will be responsible for maintenance, real estate taxes, insurance and utilities.

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year subsequent to change in ownership:

	<u>Total</u>
Revenues:	
Medicaid	\$8,163,545
Medicare	2,291,498
Private Pay/Other	<u>7,135,335</u>
Total Revenues	\$17,590,378
Expenses:	
Operating	\$13,551,435
Interest	72
Depreciation and Rent	<u>2,308,139</u>
Total Expenses	\$15,859,646
Net Income	<u>\$ 1,730,732</u>
Utilization: (patient days)	69,502
Occupancy	99.2%

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

- Expenses include Master Lease rental.
- Proposed 2011-2012 budget changes include the applicant's estimate of: elimination of the return on equity and the return of equity, 1.2% Increase in Cash Receipt Assessment Rate, Bed hold payments eliminated, and the elimination of the 1.7% 2011 Trend factor.
- Pending impact of the July 2010 CMI changes on the Medicaid rate was estimated at 70% of total projected payment increase.
- Overall utilization is projected at 99.2%, which is consistent with 2010, while utilization by payor source is expected as follows:

Medicaid	66.38%
Medicare	12.67%
Private Pay	20.95%

- Breakeven occupancy is projected at 89.42%.

Capability and Feasibility

There is no project cost associated with this application.

BFA Attachment B presents the pro-forma balance sheet of Harris Hill Nursing Facility, LLC. As shown, the facility will initiate operation with \$ 4,139,556 in equity. It is noted that assets include \$390,000 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, equity would be reduced to \$3,749,556.

The submitted budget indicates a net income of \$1,730,732. Projected income includes the applicant's estimated impact of the 2011-2012 State Budget changes to RHCF Medicaid rates. The applicant's budget appears reasonable. Presented as BFA Attachment C, is the summary of the McGuire Group budgets.

As shown on BFA Attachment A, Harris Hill Nursing Facility had an average positive working capital position of \$415,968 in 2008-2009 and an average positive net equity position of \$4,309,448 and maintained an average net profit of \$1,584,045 for 2008-2010. Harris Hill Nursing Facility had negative working capital in 2010 due to the reclassification of all mortgage debt as a current liability in 2010 due to the Real Estate sale to NHP in January of 2011.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary- Harris Hill Nursing Facility
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Summary of McGuire Group Budgets
BFA Attachment D	Establishment Checklist



Public Health and Health Planning Council

Project # 111191-E
North Gate Health Care Facility, LLC

County: Niagara (North Tonawanda)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: February 14, 2011

Executive Summary

Description

North Gate Health Care Facility (North Gate), an existing 200-bed for-profit residential health care facility (RHCF) with respite care, located at 7264 Nash Road, North Tonawanda, requests limited co-establishment approval with five of its RHCF affiliates for the sole purpose of entering into a Master Lease Agreement with their current landlord, Nationwide Health Properties, Inc. The real property, which North Gate leased for its operations from related entity North Gate Manor Partnership, was sold on January 12, 2011 to real estate investment trust Nationwide Health Properties, Inc. (NHP).

A long term master lease arrangement is proposed, which obligates each of the six RHCFs to cover any of the group's potential inability to make rent payments. The cross guarantee would provide sustaining support to a facility going through a period of financial difficulty. Under regulation 10 NYCRR 600.9(c) such an agreement requires that the participants have limited co-establishment approval by PHHPC in order to participate in the total gross income or net revenues of an Article 28 facility. The five other RHCFs proposing cross guarantees of lease payments and being concurrently reviewed are as follows:

- CON #111186-E (Autumn View Care Facility)
- CON #111188-E (Brookhaven Health Care Facility)
- CON #111189-E (Garden Gate Health Care Facility)
- CON #111190-E (Harris Hill Nursing Facility)
- CON #111192-E (Seneca Health Care Center)

The operators of each of the six RHCFs identified above are entering into the Master Lease Agreement solely to provide cross guarantees of each nursing home's lease obligations.

DOH Recommendation
Contingent approval.

Need Summary

The lease arrangement provides for cross guarantees that ensure support if any of the facilities in the agreement fall under financial hardship, thus providing a community support system.

North Gate Health Care Facility had utilization of 98.5%, 98.2%, and 98.2% for 2007, 2008, and 2009, respectively. This exceeded Niagara County utilization in each year.

Program Summary

There are no proposed changes in either the program or physical environment of the facility. North Gate has entered into a consulting, agency and administrative services agreement with The McGuire Group, Inc. The applicant also contracts with McGuire Group Pharmacy, Inc. for medications and medication supplies.

Financial Summary

There are no project costs associated with this application. The Purchase and Sale Agreement for the Real Estate is \$11,678,576, which was paid at the January 2011 closing.

Budget:	Revenues:	\$ 17,548,976
	Expenses:	<u>16,485,328</u>
	Gain/(Loss):	\$ 1,063,648

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of an executed Master Lease Agreement acceptable to the Department of Health. [BFA, CSL]
3. Satisfactory character and competence review for the members who have disclosed interest in Autumn Woods Health Care Facility, LLC (Warren, Michigan). [LTC]
4. Submission of a photocopy of the applicant's executed operating agreement and any subsequent amendments of restatements thereof, acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

North Gate Health Care Facility, a 200 bed proprietary Residential Health Care Facility (RHCF), located at 7264 Nash Road, North Tonawanda, New York, 14120 in Niagara County is seeking approval to join into one master lease arrangement with 5 other RHCF facilities under Nationwide Health Properties, Inc. (NHP). NHP purchased North Gate Health Care Facility on January 12, 2011.

Analysis

<u><i>RHCF Bed Need</i></u>	<u><i>Niagara County</i></u>
2016 Projected Need	1,377
Current Beds	1,536
Beds Being Decertified	0
Total Resources	1,536
Unmet Need	- 159

<u><i>RHCF Utilization</i></u>	<u><i>2007</i></u>	<u><i>2008</i></u>	<u><i>2009</i></u>
North Gate Health Care	98.5%	98.2%	98.2%
Erie County	95.8%	96.6%	95.6%

Regulation 670.3 indicates that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for Niagara County. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

North Gate Health Care Facility will be required to continue policies and practices so that the proportion of its annual Medicaid patients admissions is at least 75% of the planning area percentage of health Systems Agency percentage.

North Gate Health Care Facility 100% of Medicaid Admissions:

2008 – 81.1%
2009 – 35.8 %

Niagara County 75% of Medicaid Admissions:

2008 – 22.3%
2009 – 9.8%

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	North Gate Health Care Facility	Same
<i>Address</i>	7264 Nash Road North Tonawanda, NY 14120	Same
<i>RHCF Capacity</i>	200	Same

<i>ADHC Program Capacity</i>	N/A	Same
<i>Type Of Operator</i>	Limited Liability Company	Same
<i>Class Of Operator</i>	Proprietary	Same
<i>Operator</i>	North Gate Health Care Facility, LLC <u>MEMBERS</u> F. James McGuire, Manager (16.667%) Jacquelyn McGuire Gurney (16.667%) Jeannie Marie McGuire (16.667%) Kathleen McGuire (16.667%) Kelly McGuire (16.667%) Michael McGuire (16.667%)	Same

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn Woods Health Care Facility, LLC (Warren Michigan)	January 1, 2000 to Present

Other Health Related Entities

McGuire Group Pharmacy, Inc.

- INDIVIDUAL BACKGROUND REVIEWS:

Francis James McGuire is the President and CEO of the McGuire Group, a nursing facility managing company located in Buffalo, NY. Mr. McGuire is a licensed nursing home administrator with license inactive, and serves as the managing member for the operating limited liability company. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Jacqueline McGuire Gurney is an attorney in good standing practicing law with the Erie County Family Court. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present

Autumn Woods Health Care Facility, LLC (Warren, Michigan) January 1, 2000 to Present

Jeannie M. McGuire is the owner of Enlighten Communications Group, a marketing/fundraising and consulting agency located in New York, NY. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Kelly McGuire has been employed as a personal assistant. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Kathleen McGuire is employed as an engineering manager at Northrup Grumman in Baltimore, Maryland. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Michael J. McGuire is self-employed working as an insurance sales agent. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Character and Competence – Analysis:

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

The review of operations of Autumn View Health Care Facility, LLC, Brookhaven Health Care Facility, LLC, Harris Hill Nursing Facility and Seneca Health Care Center, LLC results in a conclusion of substantially consistent high level of care since there were no enforcements for the time periods indicated.

A review of the operations of Garden Gate Health Care Facility, LLC for the period reveals that the facility paid a Civil Monetary Penalty of \$4,800 resulting from surveillance findings on July 17, 2008. Deficiencies were found under 10 NYCRR 415.12(h) Quality of Care: Accidents.

The review of operations of Garden Gate Health Care Facility, LLC results in a conclusion of substantially consistent high level of care since there were no repeat enforcements.

A review of the operations of North Gate Health Care Facility, LLC for the period reveals that the facility paid a federal Civil Monetary Penalty of \$14,625 resulting from surveillance findings on September 30, 2005. Deficiencies were found under F272 Comprehensive Assessment, F 279 Comprehensive Care Plans, and F324 Accidents.

The review of operations of North Gate Health Care Facility, LLC results in a conclusion of a substantially consistent high level of cares since there were no repeat enforcements.

The review of the operations of Autumn Woods Health Care Facility, LLC (Warren, Michigan) is ongoing and a conclusion is premature at this time.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Purchase and Sale Agreement

The applicant has submitted an executed purchase and sale agreement for the purchase of the real property interests of North Gate Health Care Facility, the terms of which are summarized below:

<i>Date:</i>	January 12, 2011
<i>Seller:</i>	North Gate Manor Partnership
<i>Purchasers:</i>	Nationwide Health Properties, Inc.
<i>Assets Purchased:</i>	The Real Property
<i>*Purchase Price:</i>	\$125,000,000
<i>Payment of Purchase Price:</i>	\$ 600,000 in escrow with remaining at close.

* Purchase price by facilities are as follows:

<u>Name of RHCF</u>	<u>Purchase Price</u>
Autumn View Manor Partnership	\$27,807,979
Brookhaven Partnership	\$17,184,038
Garden Gate Manor Partnership	\$13,457,516
Harris Hill Nursing Facility, LLC	\$21,151,496
North Gate Manor Partnership	\$11,678,576
Seneca (McGuire Manor, Inc.)	\$ 8,872,711
Autumn Woods (Friendship Associates)	\$24,847,684

Autumn Woods Residential Health is located in Warren, Michigan and will not be included in the Master Lease Agreement.

Master Lease Agreement

The applicant will continue to occupy the premises under a draft master lease agreement, the terms of which are summarized below:

<i>Premises:</i>	A 200 bed nursing home located at 7264 Nash Road in North Tonawanda, New York
<i>Landlord:</i>	Nationwide Health Properties, Inc.
<i>Tenant:</i>	North Gate Health Care Facility, LLC

Term: Effective date to January 31, 2031 with three separate five year renewals.
Rental: \$1,107,000/year (\$92,250 per month) for the first year with a 2% annual increase in rent.
Provisions: The tenant will be responsible for maintenance, real estate taxes, insurance and utilities.

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year subsequent to change in ownership:

	<u>Total</u>
Revenues:	
Medicaid	\$8,671,077
Medicare	2,933,291
Private Pay/Other	<u>5,944,608</u>
 Total Revenues	 \$17,548,976
Expenses:	
Operating	\$15,136,090
Depreciation and Rent	<u>1,349,238</u>
 Total Expenses	 \$16,485,328
 Net Income	 <u>\$ 1,063,648</u>
 Utilization: (patient days)	 71,701
Occupancy	98.2%

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

- Expenses include Master Lease rental.
- Proposed 2011-2012 budget changes include the applicant's estimate of: elimination of the return on equity and the return of equity, 1.2% Increase in Cash Receipt Assessment Rate, Bed hold payments eliminated, and the elimination of the 1.7% 2011 Trend factor.
- Pending impact of the July 2010 CMI changes on the Medicaid rate was estimated at 70% of total projected payment increase.
- Overall utilization is projected at 98.2%, which is consistent with 2010, while utilization by payor source is expected as follows:

Medicaid	69.00%
Medicare	13.86%
Private Pay	17.14%

- Breakeven occupancy is projected at 92.27%.

Capability and Feasibility

There is no project cost associated with this application.

BFA Attachment B presents the pro-forma balance sheet of North Gate Health Care Facility, LLC. As shown, the facility will initiate operation with \$ 2,157,556 in equity. It is noted that assets include \$215,330 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, equity would be reduced to \$1,942,226.

The submitted budget indicates a net income of \$1,063,648. Projected income includes the applicant's estimated impact of the 2011-2012 State Budget changes to RHCF Medicaid rates. The applicant's budget appears reasonable. Presented as BFA Attachment C, is the summary of the McGuire Group budgets.

As shown on BFA Attachment A, North Gate Health Care Facility had an average positive working capital position of \$113,051 and an average positive net equity position of \$2,466,260 in 2008-2010 and maintained a net profit of \$750,526 for 2008. North Gate Health Care Facility experienced a net loss from operations in 2009 and 2010 due to an amended lease with an increase in rental payments.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary- North Gate Health Care Facility
BFA Attachment B	Pro Forma Balance Sheet
BFA Attachment C	Summary of McGuire Group Budgets
BFA Attachment D	Establishment Checklist



Public Health and Health Planning Council

Project # 111192-E
Seneca Health Care Facility, LLC

County: Erie (West Seneca)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: February 14, 2011

Executive Summary

Description

Seneca Health Care Center (Seneca Health), an existing 160-bed proprietary LLC residential health care facility (RHCF), located at 2987 Seneca Street, West Seneca, requests limited co-establishment approval with five of its RHCF affiliates in for the sole purpose of entering into a Master Lease Agreement with their current landlord, Nationwide Health Properties, Inc. The real property, which Seneca Health leased for its operations from related entity McGuire Manor, Inc., was sold on January 12, 2011 to real estate investment trust Nationwide Health Properties, Inc. (NHP).

A long term master lease arrangement is proposed, which obligates each of the six RHCFs to cover any of the group's potential inability to make rent payments. The cross guarantee would provide sustaining support to a facility going through a period of financial difficulty. Under regulation 10 NYCRR 600.9(c) such an agreement requires that the participants have limited co-establishment approval by PHHPC in order to participate in the total gross income or net revenues of an Article 28 facility. The five other RHCFs proposing cross guarantees of lease payments and being concurrently reviewed are as follows:

- CON #111186-E (Autumn View Health Care Facility)
- CON #111188-E (Brookhaven Health Care Facility)
- CON #111189-E (Garden Gate Health Care Facility)
- CON #111190-E (Harris Hill Nursing Facility)
- CON #111191-E (North Gate Health Care Facility)

The operators of each of the six RHCFs identified above are entering into the Master Lease Agreement solely to provide cross guarantees of each nursing home's lease obligations.

DOH Recommendation
Contingent approval

Need Summary

The lease arrangement provides for cross guarantees that ensure support if any of the facilities in the agreement fall under financial hardship, thus providing a community support system.

Seneca Health Care Center had utilization of 98.1%, 98.0%, and 99.0% for 2007, 2008, and 2009, respectively. This exceeded Erie County utilization in each year.

Program Summary

There are no proposed changes in either the program or physical environment of the facility. Seneca Health Care Center has entered into a consulting, agency and administrative services agreement with The McGuire Group, Inc. The applicant also contracts with McGuire Group Pharmacy, Inc. for medications and medication supplies.

Financial Summary

There are no project costs associated with this application. The Purchase and Sale Agreement for the Real Estate is \$8,872,711, which was paid at the January 2011 closing.

Budget:	Revenues:	\$ 13,166,605
	Expenses:	<u>12,097,791</u>
	Gain/(Loss):	\$ 1,068,814

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

Architectural Summary

This project is for Establishment action only; therefore' no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Satisfactory character and competence review for the members who have disclosed interest in Autumn Woods Health Care Facility, LLC (Warren, Michigan). [LTC]
3. Submission of an executed Master Lease Agreement acceptable to the Department of Health. [BFA, CSL]
4. Submission of a photocopy of the applicant's executed operating agreement and any subsequent amendments or restatements thereof, acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Seneca Health Care Center, a 160 bed proprietary Residential Health Care Facility (RHCF), located at 2987 Seneca Street West Seneca, New York 14224, in Erie County is seeking approval to join into one master lease arrangement with 5 other RHCF facilities under Nationwide Health Properties, Inc. (NHP). NHP purchased Seneca Health Care Center on January 12, 2011

Analysis

<i>RHCF Bed Need</i>	<i>Erie County</i>
2016 Projected Need	5,291
Current Beds	6,340
Beds Being Decertified	332
Total Resources	6,008
Unmet Need	- 717

<i>RHCF Utilization</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Seneca Health Care Center	98.1%	98.0%	99.0%
Erie County	95.3%	95.3%	96.0%

Regulation 670.3 indicates that the Medicaid patient admissions standard shall be 75% of the annual percentage of all Medicaid admissions for Erie County. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

Seneca Health Care Center will be required to continue policies and practices so that the proportion of its annual Medicaid patients admissions is at least 75% of the planning area percentage of health Systems Agency percentage.

Seneca Health Care Center 100% of Medicaid Admissions:

2008 – 64.7%
2009 – 40.0%

Erie County 75% of Medicaid Admissions:

2008 – 22.1%
2009 – 11.0%

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Seneca Health Care Center	Same
<i>Address</i>	2987 Seneca Street West Seneca, NY 14224	Same
<i>RHCF Capacity</i>	160	Same
<i>ADHC Program Capacity</i>	N/A	Same
<i>Type Of Operator</i>	Limited Liability Company	Same

<i>Class Of Operator</i>	Proprietary	Same
<i>Operator</i>	Seneca Health Care Center, LLC <u>MEMBERS</u> F. James McGuire, Manager (16.667%) Jacquelyn McGuire Gurney (16.667%) Jeannie Marie McGuire (16.667%) Kathleen McGuire (16.667%) Kelly McGuire (16.667%) Michael McGuire (16.667%)	Same

Character and Competence

- FACILITIES REVIEWED:

Residential Health Care Facilities

Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn Woods Health Care Facility, LLC (Warren Michigan)	January 1, 2000 to Present

Other Health Related Entities

McGuire Group Pharmacy, Inc.

- INDIVIDUAL BACKGROUND REVIEWS:

Francis James McGuire is the President and CEO of the McGuire Group, a nursing facility managing company located in Buffalo, NY. Mr. McGuire is a licensed nursing home administrator with license inactive, and serves as the managing member for the operating limited liability company. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Jacqueline McGuire Gurney is an attorney in good standing practicing law with the Erie County Family Court. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Jeannie M. McGuire is the owner of Enlighten Communications Group, a marketing/fundraising and consulting agency located in New York, NY. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Kelly McGuire has been employed as a personal assistant. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Kathleen McGuire is employed as an engineering manager at Northrup Grumman in Baltimore, Maryland. Ms. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Michael J. McGuire is self-employed working as an insurance sales agent. Mr. McGuire has disclosed the following health facility interests.

Residential Health Care Facilities

Brookhaven Health Care Facility, LLC	January 1, 2004 to Present
North Gate Health Care Facility, LLC	March 1, 2003 to Present
Seneca Health Care Center, LLC	March 1, 2003 to Present
Autumn View Health Care Facility, LLC	March 1, 2003 to Present
Garden Gate Health Care Facility, LLC	March 1, 2003 to Present
Harris Hill Nursing Facility	January 1, 2006 to Present
Autumn Woods Health Care Facility, LLC (Warren, Michigan)	January 1, 2000 to Present

Character and Competence – Analysis:

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

The review of operations of Autumn View Health Care Facility, LLC, Brookhaven Health Care Facility, LLC, Harris Hill Nursing Facility and Seneca Health Care Center, LLC results in a conclusion of substantially consistent high level of care since there were no enforcements for the time periods indicated.

A review of the operations of Garden Gate Health Care Facility, LLC for the period reveals that the facility paid a Civil Monetary Penalty of \$4,800 resulting from surveillance findings on July 17, 2008. Deficiencies were found under 10 NYCRR 415.12(h) Quality of Care: Accidents.

The review of operations of Garden Gate Health Care Facility, LLC results in a conclusion of substantially consistent high level of care since there were no repeat enforcements.

A review of the operations of North Gate Health Care Facility, LLC for the period reveals that the facility paid a federal Civil Monetary Penalty of \$14,625 resulting from surveillance findings on September 30, 2005. Deficiencies were found under F272 Comprehensive Assessment, F 279 Comprehensive Care Plans, and F324 Accidents.

The review of operations of North Gate Health Care Facility, LLC results in a conclusion of a substantially consistent high level of cares since there were no repeat enforcements.

The review of the operations of Autumn Woods Health Care Facility, LLC (Warren, Michigan) is ongoing and a conclusion is premature at this time.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Purchase and Sale Agreement

The applicant has submitted an executed purchase and sale agreement for the purchase of the real property interests of Seneca Health Care Center, the terms of which are summarized below:

<i>Date:</i>	January 12, 2011
<i>Seller:</i>	McGuire Manor Inc.
<i>Purchasers:</i>	Nationwide Health Properties, Inc.
<i>Assets Purchased:</i>	The Real Property
<i>*Purchase Price:</i>	\$125,000,000
<i>Payment of Purchase Price:</i>	\$600,000 in escrow with remaining at close.

* Purchase price by facilities are as follows:

<u>Name of RHCF</u>	<u>Purchase Price</u>
Autumn View Manor Partnership	\$27,807,979
Brookhaven Partnership	\$17,184,038
Garden Gate Manor Partnership	\$13,457,516
Harris Hill Nursing Facility, LLC	\$21,151,496
North Gate Manor Partnership	\$11,678,576
Seneca (McGuire Manor, Inc.)	\$ 8,872,711
Autumn Woods (Friendship Associates)	\$24,847,684

Autumn Woods Residential Health is located in Warren, Michigan and will not be included in the Master Lease Agreement.

Master Lease Agreement

The applicant will continue to occupy the premises under a draft master lease agreement, the terms of which are summarized below:

<i>Premises:</i>	A 160 bed nursing home located at 2987 Seneca St., in West Seneca, New York
<i>Landlord:</i>	Nationwide Health Properties, Inc.
<i>Tenant:</i>	Seneca Health Care Center
<i>Term:</i>	Effective date to January 31, 2031 with three separate five year renewals.
<i>Rental:</i>	\$841,000/year (\$70,083.33 per month) for the first year with a 2% annual increase in rent.

Provisions: The tenant will be responsible for maintenance, real estate taxes, insurance and utilities.

Operating Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year subsequent to change in ownership:

	<u>Total</u>
Revenues:	
Medicaid	\$8,078,688
Medicare	1,442,141
Private Pay/Other	<u>3,645,776</u>
Total Revenues	\$13,166,605
Expenses:	
Operating	\$11,028,968
Interest	452
Depreciation and Rent	<u>1,068,371</u>
Total Expenses	\$12,097,791
Net Income	<u>\$ 1,068,814</u>
Utilization: (patient days)	57,272
Occupancy	98.1%

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

- Expenses include Master Lease rental.
- Proposed 2011-2012 budget changes include the applicant's estimate of: elimination of the return on equity and the return of equity, 1.2% Increase in Cash Receipt Assessment Rate, Bed hold payments eliminated, and the elimination of the 1.7% 2011 Trend factor.
- Pending impact of the July 2010 CMI changes on the Medicaid rate was estimated at 70% of total projected payment increase.
- Overall utilization is projected at 98.1%, which is consistent with 2010, while utilization by payor source is expected as follows:

Medicaid	79.14%
Medicare	9.97%
Private Pay	10.89%

- Breakeven occupancy is projected at 90.11%.

Capability and Feasibility

There is no project cost associated with this application.

BFA Attachment B presents the pro-forma balance sheet of Seneca Health Care Center, LLC. As shown, the facility will initiate operation with \$ 2,492,354 in equity. It is noted that assets include \$690,881 in goodwill, which is not an available liquid resource, nor is it recognized for Medicaid reimbursement purposes. Thus, equity would be reduced to \$1,801,473.

The submitted budget indicates a net income of \$1,068,814. Projected income includes the applicant's estimated impact of the 2011-2012 State Budget changes to RHCF Medicaid rates. The applicant's budget appears reasonable. Presented as BFA Attachment C, is the summary of the McGuire Group budgets.

As shown on BFA Attachment A, Seneca Health Care Center has experienced an average negative working capital position of \$425,138 and has maintained an average positive net equity position of \$1,687,833 in 2008-2010, and maintained a net profit of \$83,346 and \$182,867 for 2010 and 2008, respectively. Seneca Health Care Center experienced a net loss from operations in 2009 due to an amended lease with an increase in rental payments and a decrease in net patient revenues.

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

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary- Seneca Health Care Center
BFA Attachment B	Pro-Forma Balance Sheet
BFA Attachment C	Summary of McGuire Group Budgets
BFA Attachment D	Establishment Checklist



Public Health and Health Planning Council

Project # 111248-E

Morningstar Care Center, Inc.
d/b/a Morningstar Residential Care Center

County: Oswego (Oswego)
Purpose: Establishment

Program: Residential Health Care Facility
Submitted: February 22, 2011

Executive Summary

Description

Morningstar Care Center, Inc. requests approval to be established as the new operator of Sunrise Nursing Home, Inc., an existing 120-bed residential health care facility (RHCF) located at 17 Sunrise Drive, Oswego. The change in operating ownership interests will have no significant impact on the RHCF, and there is no real estate transaction as part of this application.

The current and proposed ownership of the RHCF is as follows:

<u>Current</u>	<u>Proposed</u>
Joseph Castaldo 100%	Joseph Murabito 100%

Joseph Castaldo is transferring interest to his grandson who is an experienced, licensed nursing home administrator.

DOH Recommendation
Contingent approval

Need Summary

There was a slight decrease in occupancy from 90.3% in 2007 to 87.7% in 2009 for Sunrise Nursing Home.

Program Summary

No changes in program are being proposed in this application. The purpose of the application is to establish Morningstar Care Center, Inc. as the new operator of Sunrise Nursing Home. The new facility name will be Morningstar Residential Care Center.

Financial Summary

There are no project costs associated with this application. The purchase price for the operating interest in Sunrise Nursing Home, Inc. is \$1,440,000,

and will be met via a personal promissory note between the seller and the buyer for a 120-month term at 4%, each totaling \$12,000 per month.

At the end of the note, a balloon payment representing the interest in the amount of \$1,830,000 is due. The applicant has submitted an affidavit indicating that in the event the balloon cannot be satisfied, the past owner, Joseph Castaldo will refinance the loan and extend the terms for an additional 120 months until the note has been satisfied.

Year 1 Budget:	<i>Revenues:</i>	\$ 8,427,931
	<i>Expenses:</i>	<u>7,369,061</u>
	<i>Gain/(Loss):</i>	\$ 1,058,870

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The submission of a commitment signed by the applicant which indicates that, within two years from the date of the council approval, the percentage of all admissions who are Medicaid and Medicare/Medicaid eligible at the time of admission will be at least 75 percent of the planning area average of all Medicaid and Medicare/Medicaid admissions, subject to possible adjustment based on factors such as the number of Medicaid patient days, the facility's case mix, the length of time before private paying patients became Medicaid eligible, and the financial impact on the facility due to an increase in Medicaid admissions. [RNR]
2. Submission of an executed commitment for the purchase of the operation, that is acceptable to the Department. [BFA]
3. Submission of an executed building lease agreement to the Department. [BFA, CSL]
4. Submission of updated budgets, with all assumptions noted, that include the impact of the State's 2011-12 Budget and continues to demonstrate financial feasibility, acceptable to the Department. [BFA]
5. Submission of a working capital loan commitment that is acceptable to the Department. [BFA]
6. Submission of a copy of an executed Certificate of Incorporation or Certificate of Amendment of the Certificate of Incorporation, which is acceptable to the Department.
7. Submission of Bylaws, which is acceptable to the Department. [CSL]
8. Submission of original stockholder affidavits, which is acceptable to the Department. [CSL]
9. Submission of a copy of the stock certificate, which is acceptable to the Department. [CSL]
10. Please submit a fully executed Certificate of Amendment to the seller's Certificate of Incorporation or the seller's Certificate of Dissolution, as the case may be, indicating that the seller will no longer be running the facility. [CSL]

Council Action Date

June 16, 2011.

Need Analysis

Background

Morningstar Care Center, Inc. is submitting this application to become the sole operator of Sunrise Nursing Home, a proprietary 120-bed Residential Health Care Facility – SNF, located at 17 Sunrise Drive, Oswego.

Analysis

<i>RHCF Bed Need</i>	<i>Oswego County</i>
2016 Projected Need	653
Current Beds	609
Beds Under Construction	0
Total Resources	609
Unmet Need	44

<i>RHCF Utilization</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Morningstar Care Center	90.3%	86.8%	87.7%
Oswego County	94.1%	93.4%	92.6%

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, whichever is less. In calculating such percentages, the Department will use the most current data which have been received and analyzed by the Department.

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

Medicaid admissions at Sunrise Nursing Home were above the 75% planning average for both 2008 and 2009. The facility reported Medicaid admissions of 33.3% and 15.3% in 2008 and 2009, respectively. The 75% planning averages for Oswego County for said years were 12.2% (2008) and 6.7% (2009). The facility exceeded the Medicaid Access Standard for both years in question.

Recommendation

From a need perspective, contingent approval is recommended.

Programmatic Analysis

Facility Information

	<i>Existing</i>	<i>Proposed</i>
<i>Facility Name</i>	Sunrise Nursing Home	Morningstar Residential Care Center
<i>Address</i>	17 Sunrise Drive Oswego	Same
<i>RHCF Capacity</i>	120	Same
<i>ADHC Program Capacity</i>	N/A	N/A
<i>Type Of Operator</i>	Corporation	Corporation
<i>Class Of Operator</i>	Proprietary	Proprietary

<i>Operator</i>	Sunrise Nursing Home, Inc.	Morningstar Care Center, Inc.* d/b/a Morningstar Residential Care Center
	Joseph Castaldo (100%)	Joseph Murabito (100%)
		<i>*Name of existing corporation is being amended.</i>

Character and Competence

- FACILITIES REVIEWED:

N/A

- INDIVIDUAL BACKGROUND REVIEW:

Joseph Murabito holds a NYS Nursing Home Administrator license in good standing and is currently the Administrator of Record for Sunrise Nursing Home. Mr. Murabito has disclosed the following employment history:

Licensed Nursing Home Administrator Sunrise Nursing Home, April 1, 2010 – present;
 Vice President of Business Development (consultant), Alternative Solutions Group, 2009 – present;
 Regional Vice President of Operations, Wingate Healthcare (SNF/RHCF), 2002- 2009

Mr. Murabito has disclosed no interest in facilities/agencies.

Character and Competence – Analysis:

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

Project Review

No changes in physical environment are being proposed in this application.

Project Review – Analysis:

The purpose of this application is to establish Morningstar Care Center, Inc. as the new operator of Sunrise Nursing Home, Inc.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Asset Purchase Agreement

The change in ownership will be effectuated in accordance with the executed asset purchase agreement, the terms of which are summarized below:

<i>Date:</i>	December 7, 2010
<i>Buyer:</i>	Morningstar Care Center, Inc.
<i>Seller:</i>	Sunrise Nursing Home, Inc.
<i>Assets Acquired:</i>	Office Equipment, personal property, supplies, goodwill, business names, cash (not to exceed \$200,000), accounts receivable, accounts payable except for what is specifically excluded in writing at the date of closing, all contracts that are part of the operation will be assumed by buyer.
<i>Excluded Assets:</i>	Seller's book of accounts, obligations for employees, any workers compensation claims in the past.
<i>Liabilities Assumed:</i>	Specific various equipment leases.

Purchase Price: \$1,440,000 based on a good faith estimate.
Provisions: The purchase price shall be confirmed at the date of closing in the event any additional considerations are taken into account. Payments of \$12,000 per month for 120 months at 4% interest rate per annum which will be paid out of the facility operations.

The applicant has submitted an original affidavit, which is acceptable to the Department, in which the applicant agrees, notwithstanding an 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 liabilities and responsibility. Currently, the facility has no outstanding assessments or liabilities.

Lease Assignment Agreement

The applicant will continue to occupy the premises under a lease agreement, the terms of which are summarized below:

Premises: 120 bed nursing home located at 17 Sunrise Drive, Oswego, New York.
Lessor: CSP Realty, LLC
Lessee: Joseph Murabito, for and on behalf of an entity to be formed by him.
Term: 20 years
Rental: \$300,000 annually.
Provisions: This is a non arms length agreement.

Historically, Medicaid capital reimbursement was based on the return on and return of equity methodology. The applicant will no longer receive return on and return of equity reimbursement revenues consistent with the 2011-2012 State budget.

Operation Budget

The applicant has submitted an operating budget, in 2011 dollars, for the first year subsequent to change in ownership:

	<u>Per Diem</u>	<u>Total</u>
Revenues:		
Medicaid	\$145.06	\$4,648,568
Medicare	500.96	2,992,699
Private pay	206.75	596,565
Other Income	216.05	<u>190,099</u>
Total Revenues		\$8,427,931
Expenses:		
Operating	\$168.18	\$6,923,176
Capital	<u>10.83</u>	<u>445,885</u>
Total Expenses	\$179.01	\$7,369,061
Net Income		<u>\$1,058,870</u>
Utilization: (patient days)		41,165
Occupancy		93.98%

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

- The Case Management Index is .9452
- Break even occupancy is 80.13%
- The budget is based on 2010 historical payor mix.

- Other Income is perpetual in nature for ancillary services such as speech therapy, cafeteria services etc.
- Medicare rates show an increase due to the RUG IV rate increases.
- Medicaid assumes 1.7% trend elimination and 1.2% non-reimbursable gross receipts assessments, which is consistent with the enacted 2011-2012 State budget.

Utilization by payor source during the first year subsequent to the change in ownership:

Medicaid	77.84%
Medicare	13.21%
Medicare Managed Care	1.73%
Private	7.01%
Other	.21%

Capability and Feasibility

The applicant will finance \$1,440,000 at an interest rate of 4% amortized over ten years. The promissory note payment will be made from the operations of the facility.

Working capital requirements are estimated at \$1,228,176, and appear reasonable based on two months' of first year expense. The proposed working capital requirement will be met through a loan from the bank in the amount of \$400,000 at a rate of 4.25% for 60 months to the proposed owner. Also, CSP Realty, LLC, who currently owns the property will borrow and provide a personal loan to the buyer for \$600,000 at a rate of 6% for a term of 120 months. Letters of interest have been submitted from the proposed lending institution for the seller's loan and the buyer's loan.

Also, an executed agreement has been submitted from CSP Realty, LLC and the buyer referencing the second loan of \$600,000. The residual \$228,176 will come from cash from operations of \$200,000 and equity from the proposed owner of \$28,176.

Feasibility is concerned on the applicant's ability to offset expenses with revenues and maintain a viable operating entity. The submitted budget indicates a net income of \$1,058,870. Following is a comparison of the (2010) and projected revenues and expenses:

2010 Historical Revenues	\$7,353,106
2010 Historical Expenses	<u>6,785,922</u>
2010 Excess Revenues	\$567,184
Incremental Income	\$1,074,825
Incremental Expense	<u>583,139</u>
Net Incremental Income	\$491,686
Projected Net Income	\$1,058,870

Incremental income includes an increase in Medicaid reimbursement due to the RUG IV reimbursement and increase in ancillary revenues. Incremental expense includes rent expense and the difference between the current and the average historical level. Budgeted net income appears reasonable.

Presented as BFA Attachment B, is the financial summary of Sunrise Nursing Home, Inc. As Shown on Attachment B, the facility maintained an average negative working capital position and negative net asset position for the period shown. Also, the facility achieved an average operating income of \$82,615 for the period shown. The facility loss in 2008 was due to low occupancy, which was 86.53% in 2008.

The reason for the low occupancy was Oswego County had 729 beds, which was 76 beds over the capacity, according to the Departments' projected need for the county. In 2010, a 120 bed facility closed, Loretto-Oswego, dropping the capacity for the County and causing a material increase in utilization to 93.98% for Sunrise Nursing Home, Inc.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Personal Net Worth Statement, Individual Member
BFA Attachment B	Financial Summary Sunrise Nursing Home
BFA Attachment C	Pro-Forma Balance Sheet-Morning Care Center
BFA Attachment D	Establishment Checklist

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Certified Home Health Agencies – Establish/Construct

Exhibit #15

<u>Number</u>	<u>Applicant/Facility</u>
1. 051081 E	Family Aides Certified Services of Nassau, Suffolk Incorporated d/b/a Family Care Certified Services of Nassau (Nassau County)
2. 101147 B	Litson Certified Care, Inc., d/b/a WILLCARE (Ulster County)
3. 101156 E	L. Woerner, Inc., d/b/a HCR (Orleans County)
4. 102080 E	Genesee Region Home Care Association d/b/a Lifetime Care (Cayuga County)
5. 102408 E	PTS of Westchester, Inc. (Westchester County)
6. 102409 E	Personal Touch Home Aides of New York, Inc. (Kings County)



Public Health and Health Planning Council

Project # 051081-E Family Aides Certified Services of Nassau, Suffolk Incorporated d/b/a Family Care Certified Services of Nassau

County: Westchester (Mount Kisco)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: March 18, 2005

Executive Summary

Description

Family Aides Certified Services of Nassau, Suffolk, Inc., d/b/a Family Care Certified Services of Nassau, a proprietary corporation operating an Article 36 certified home health agency (CHHA) in Nassau County, is requesting approval for the acquisition of Datahr Home Health Care, Inc., a CHHA serving the developmentally disabled population of Dutchess, Putnam and Westchester Counties.

Family Care Certified Services of Nassau, Suffolk, Inc. also operates an Article 36 long term home health care program (LTHHCP). The CHHA/LTHHCP main office will remain in Nassau County at 120 West John Street, Hicksville.

This application was delayed because on April 19, 2007, William Schnell, owner of the proprietary corporation, entered into a plea of guilty to violating the New York State Penal Law for filing falsified Home Care Service cost reports and agreed to divest his shareholder status of all the home care companies owned by him. The court appointed and granted legal authority over the corporation to Robert Silbering via a trust agreement. Mr. Silbering is not related to William Schnell of Family Aides Certified Services of Nassau, Suffolk, Inc. CON #072196-E was approved by the Public Health Council June 10, 2009, for the 100% transfer of stock to Nassau CHHA Grantor Trust as the sole shareholder.

Family Aides Certified Services of Nassau, Suffolk, Inc. wishes to proceed with the acquisition of Datahr Home Health Care, Inc., now that the legal issues have been resolved. Datahr Home Health Care, Inc. is currently operating under a management agreement with Family Care Certified Services of Nassau, Suffolk, Inc.

DOH Recommendation

Contingent approval.

Need Summary

Family Care Certified Services of Nassau, Suffolk, Inc. will serve Dutchess, Putnam and Westchester Counties as a special needs CHHA, and will continue to serve Nassau County as a general purpose CHHA. They will continue to provide the services of home health aide, medical social services, medical supplies/equipment/appliances, nursing, nutrition, occupational therapy, physical therapy and speech language pathology.

Program Summary

Family Care Certified Services of Nassau, Suffolk plans to operate this agency as a separate agency and close Datahr Home Health Care, Inc. CHHA. Family Care Certified Services of Nassau, Suffolk, Inc. and its principals all possess the appropriate character and competence for approval of this application.

Financial Summary

The total purchase price of \$350,000 has already been paid with equity from the applicant.

Budget:	<i>Revenues:</i>	\$ 885,451
	<i>Expenses:</i>	<u>869,596</u>
	<i>Gain/(Loss):</i>	\$ 15,855

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

Architectural Summary

This project is for Establishment action only; therefore, no Architectural review is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. The applicant must submit a plan acceptable to the Department of Health that details how it will achieve compliance with the provision of no less than 2% charity care. [CHA]

Approval conditional upon:

1. The provision of CHHA services in Dutchess, Putnam and Westchester Counties are limited to the special needs population of patients with mental retardation and developmental disabilities, with the understanding that the Department of Health will monitor utilization statistics for agency compliance with the condition. [CHA]

Council Action Date

June 16, 2011.

Need Analysis

Background

Family Aides Certified Services of Nassau/Suffolk, an existing certified home health agency, requests approval to be established as the operator of Datahr Home Health Care, Inc., a special needs home care services agency.

According to the applicant, there are over 1,800 individuals with Traumatic Brain Injury (TBI) in the Hudson Valley, and over 8,500 individuals with developmental disabilities in Dutchess, Putnam and Westchester counties. These individuals have a great need for the specialized medical care and monitoring offered by Datahr.

There will be no change to the CHHA's existing service area as a result of this application.

Family Aides Services of Nassau/Suffolk is authorized to provide the following services:

Home Health Aide	Medical Social Service	Nutrition
Personal Care	Physical Therapy	Speech/Language Pathology
Medical Supply Equipment	Occupational Therapy	Nursing

Family Aides Certified Services of Nassau/Suffolk, Inc. reported the following 2002 utilization to the Department of Health for its program:

<u>CHHA Utilization</u>	<u>2002 Visits</u>
Nursing	18,522
Home Health Aide	9,108
Physical Therapy	6,146
Occupational Therapy	2,191
Speech/Language Pathology	1,159
Social Services	90
Nutrition	34
<i>Total</i>	<u>37,250</u>

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Family Aides Certified Services of Nassau, Suffolk, Inc. received Public Health Council approval on March 30, 2009 (CON #072196-E) for 100% transfer of stock ownership to Nassau CHHA Grantor Trust, which occurred on November 5, 2007, with Department of Health approval.

The Family Care Certified Services CHHA, will serve Dutchess, Putnam and Westchester Counties as a special needs CHHA, and will continue to serve Nassau County as a general purpose CHHA. They will continue to provide the services of Home Health Aide, Medical Social Services, Medical Supplies/Equipment/Appliances, Nursing, Nutrition, Occupational Therapy, Physical Therapy and Speech Language Pathology.

The current trustee of Nassau CHHA Grantor Trust is the following individual:

Robert H. Silbering – 100%

The current board members and officers of Family Aides Certified Services of Nassau, Suffolk, Inc. are as follows:

<p>Robert H. Silbering, Esq. – Trustee, Chairman President of Forensic Investigative Associates, T&M Protection Resources, LLC</p> <p><u>Affiliations:</u></p> <ul style="list-style-type: none">• Trustee - Family Aides, Inc.• Trustee - Family Aides Certified Services of Brooklyn-Queens, Inc.• Trustee - Metrocare Grantor Trust• Trustee - Metrocare Givers Grantor Trust <p>Fred A. Stein – Director, Secretary, Treasurer Vice President of Finance, Family Aides Certified Services of Nassau, Suffolk, Inc. Vice President of Finance, Family Aides Certified Services of New York City, Inc. Vice President of Finance, Family Aides Metropolitan Services, Inc. Vice President of Finance, Metrocare Givers, Inc. Vice President of Finance, Family Aides, Inc.</p> <p><u>Affiliations:</u></p> <ul style="list-style-type: none">• Secretary/Treasurer - Family Aides, Inc.• Secretary/Treasurer - Family Aides Certified Services of Brooklyn-Queens, Inc.• Secretary/Treasurer - Metrocare Grantor Trust• Secretary/Treasurer - Metrocare Givers Grantor Trust	<p>Mark Berger – Director President, Family Aides Certified Services of Nassau, Suffolk, Inc.</p>
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Ninety-eight of the 200 shares of authorized stock remained unissued, and were not part of the Trust Agreement. William Schnell transferred his shares of stock in connection with a negotiated civil settlement following his conviction of Grand Larceny. After this transaction, William Schnell resigned from his position with Family Aides Certified Services of Nassau, Suffolk, Inc., and has no further affiliation with this company.

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

A Certificate of Good Standing has been received for the attorney associated with this application.

The information provided by the Bureau of Home Care / Hospice Surveillance and Quality Indicator / Evaluation 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.

A review of the personal qualifying information indicates there is nothing in the background of the board members or trustee to adversely affect their positions with Family Aides Certified Services of Nassau, Suffolk, Inc. or the Nassau CHHA Grantor Trust. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Background

Presented as BFA Attachment A is the organizational chart of Family Care Certified Services of Nassau, Suffolk, Inc.

Lease Rental Agreement

The applicant has submitted an executed lease rental agreement, the terms of which are summarized below:

Premises: Suite E located at 120 Kisco Avenue, Mt. Kisco, New York representing 1,186 sq. ft.
Landlord: Medcomp Technologies. Inc.
Lessee: Family Aides Certified Services of Nassau, Suffolk, Inc.
Rental: \$26,220/year (\$22.11 per sq. ft.)
Term: 10 year term renewable yearly.
Provisions: Lessee is responsible for taxes, utilities and maintenance.

There is no relationship between the landlord and lessee, therefore the lease arrangement is an arm's length agreement. Other non-related parties occupy the remainder of the building.

Asset Purchase Agreement

The applicant has submitted an executed asset purchase agreement, the terms of which are summarized below:

Seller: Datahr Home Health Care, Inc.
Buyer: Family Aides Certified Services of Nassau/Suffolk, Inc.
Assets Transferred: Copies of patient lists, patient files and medical records of any and all consented patients and all other documents required to enable buyer to assume and continue providing home care services to consented patients; all trade secrets, processes, procedures, advertising matter, sales material and correspondence, market research and surveys and marketing information wherever located related solely to the business; the right to state that the buyer acquired certain assets; equipment, furniture, fixtures, furnishings and similar property owned by seller; supplies used in the business; all books, records, manuals, accounting records, and other materials relating to Datahr CHHA's business; Datahr CHHA's cash, cash equivalents, security performance deposits, notes receivable, and accounts receivable for sales and services rendered prior to the closing date; Datahr CHHA's financial records, canceled checks and bank statements; any claims, refunds, right, actions and litigation by Datahr CHHA, and the proceeds thereof prior to the closing; books and records, tax record and tax returns, accounting records and general ledger or other books of account; any trade names; office leases and leases of personal property; contracts and contract rights; insurance policies and prepaid premiums, and other prepaid expense and seller's federal tax identification number, Medicaid provider agreements and numbers, Medicare provider agreements and numbers and other government provider agreements and supplier agreements and numbers, if any.
Assets Excluded: Books and records of the Seller prior to the date of the agreement.
Assumed Liabilities: All liabilities arising from the operation of Datahr CHHA after the effective date of the consulting services agreement.
Excluded Liabilities: Liabilities for personal injuries, or property damage for which claims have been made or which occurred prior to closing date; liabilities for any compensations, vacation pay, sick pay, bonus or any payments due or

Purchase Price: owed to any employee or former employee of Datahr CHHA; liabilities for payment of any applicable federal, state, or local taxes prior to closing date; \$350,000 already paid in full

The applicant has provided 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 make to the facility and/or surcharges, assessments or fees due form the transferor pursuant to Article 36 of the Public Health law with respect to the period of time prior to the applicant acquiring its interest, without releasing the transferor of its liability and responsibility.

Operating Budgets

The applicant has submitted an operating budget for the CHHA, in 2011 dollars, for the first year subsequent to the change in operator, summarized below:

Revenues:	\$885,451
Expenses:	<u>869,596</u>
Net Income:	\$ 15,855

Expenses are further broken down as follows:

	<u>Total Cost</u>	<u>Visits/Hours</u>	<u>Cost/Visit/Hour</u>
Nursing	\$638,082	4,069	\$156.81
Physical Therapy	50,504	576	\$87.68
Speech Therapy	451	5	\$90.02
Occupational Therapy	10,097	112	\$90.15
Medical Social Services	5,596	13	\$430.46
Home Health Aides*	<u>164,866</u>	6,560	\$25.13
<i>Total</i>	<u>\$869,596</u>		

*Reported in hours

Utilization by payor source for the first year subsequent to the change in operator is as follows:

Commercial Fee for Service	2%
Medicare Managed Care	10%
Medicaid Fee for Service	86%
Charity Care	2%

Expense and utilization assumptions are based on the historical experience of Datahr Home Health Care, Inc. and the experience of the applicant in operating a CHHA.

Capability and Feasibility

The purchase price of \$350,000 has already been paid in full with equity from the applicant.

Working capital requirements are estimated at \$144,932 based on two months of first year expenses and will be provided by equity from the applicant. Presented as BFA Attachment B is the financial summary of Family Aides Certified Services of Nassau, Suffolk, Inc., which indicates the availability of sufficient funds.

The submitted budget indicates excess revenues of \$15,855 during the first year subsequent to the change in operator. Based on the 2010 ceiling payments for CHHA services, the projected revenues are below the ceilings. Revenue is based on Family Aides Certified Services of Nassau, Suffolk, Inc.'s experience in the operation of its CHHA and on current payment rates for home health care services. The budget appears reasonable.

As shown on BFA Attachment B, a financial summary of Family Aides Services Nassau, Suffolk, Inc. indicates that the facility has maintained positive working capital and stockholder's equity and experienced a net income of \$114,118

and \$311,971 for the years 2008 and 2009, respectively. As of June 30, 2010 the applicant has maintained a net income of \$366,773.

Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Organizational Chart
BFA Attachment B	Financial Summary, Family Aides Services Nassau, Suffolk, Inc.
BFA Attachment C	Draft Financial Summary as of June 30, 2010, Family Aides Services Nassau, Suffolk, Inc
BFA Attachment D	Pro Forma/Combined balance sheet



Public Health and Health Planning Council

Project # 101147-B

**Litson Certified Care, Inc.
d/b/a WILLCARE**

County: Ulster (Kingston)

Program: Certified Home Health Agency

Purpose: Establishment and Construction

Submitted: June 14, 2010

Executive Summary

Description

Litson Certified Care, Inc. d/b/a WILLCARE, an existing Article 36 certified home health agency (CHHA) and licensed home care services agency (LHCSA) serving Orange, Ulster and Westchester Counties, wishes to purchase and become the new owner/operator of Ulster County Department of Health CHHA and 75-slot Long-Term Home Health Care Program (LTHHCP), serving Ulster County.

WILLCARE plans to merge the Ulster County Department of Health CHHA's operations into its existing general service CHHA operations serving Orange, Ulster and Westchester Counties, and to close Ulster County Department of Health's CHHA and LTHHCP.

Litson Certified Care, Inc. d/b/a WILLCARE is an Article 36 for-profit proprietary business corporation located in Kingston, and is a wholly-owned subsidiary of Western Region Health Corporation d/b/a Willcare, whose parent corporation is Bracor, Inc. d/b/a Willcare. Bracor, Inc. d/b/a Willcare owns and operates through its subsidiaries, licensed and certified home health care agencies in Western New York, the Hudson Valley, Cleveland, Ohio and Connecticut.

DOH Recommendation
Contingent approval.

Program Summary

Litson Certified Care, Inc. d/b/a WILLCARE is also approved as a special needs CHHA to serve the OPWDD populations in Dutchess, Putnam and Sullivan Counties. WILLCARE proposes to serve its CHHA and LTHHCP patients living in Ulster County from its existing Ulster County branch office. The

addition of 75 LTHHCP slots will give WILLCARE a total of 104 LTHHCP slots to serve the population of Ulster County.

Litson Certified Care, Inc. d/b/a WILLCARE and its principals all possess the appropriate character and competence for approval of this application.

Financial Summary

There are no project costs associated with this application. The Asset Purchase price is \$1,400,000 whereas \$50,000 will be paid upon execution, \$950,000 paid at time of closing and the remaining \$400,000 to be paid at 7% interest over eight quarterly installments.

Budget:	Revenues:	\$ 2,599,152
	Expenses:	<u>2,107,907</u>
	Gain/(Loss):	\$ 491,245

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

Architectural Summary

This project involves a long term home health care program; therefore, no Architectural review is required.

Recommendations

Health Systems Agency

There will be no HSA review for this project.

Office of Health Systems Management

Approval contingent upon:

1. Submission of a check for the amount enumerated in the approval letter, payable to the New York State Department of Health. Public Health Law Section 2802.7 states that all construction applications requiring review by the Public Health and Health Planning Council shall pay an additional fee of thirty hundredths of one percent of the total capital value of the project, exclusive of CON fees. [PMU]
2. Submission of an executed Asset Purchase Agreement acceptable to the Department of Health. [BFA, CSL]
3. Submission of written confirmation that the corporate/organizational documents for the applicant and its shareholders have not changed from those submitted in connection with CON #072188-E. [CSL]

Council Action Date

June 16, 2011.

Programmatic Analysis

Background

Litson Certified Care, Inc., a business corporation, operating under the assumed name of WILLCARE, was established as the operator of an Article 36 general population certified home health agency (CHHA) serving Orange, Ulster and Westchester Counties, a special needs CHHA serving Dutchess, Putnam and Sullivan Counties, and a Long Term Home Health Care Program (LTHHCP) serving Ulster County.

Litson Certified Care, Inc. is applying for approval to purchase and become the new owner/operator of Ulster County Department of Health Home Health Agency and 75 slot Long Term Home Health Care Program (LTHHCP), serving Ulster County. Litson Certified Care, Inc. d/b/a WILLCARE plans to merge the Ulster County Department of Health Home Health Agency's operations into its existing Litson Certified Care, Inc. d/b/a WILLCARE CHHA and LTHHCP operations, and to close Ulster County Department of Health CHHA and LTHHCP. Litson Certified Care, Inc. d/b/a WILLCARE proposes to serve its CHHA and LTHHCP patients in Ulster County from its existing branch office located in Ulster County.

The Litson Certified Care, Inc. d/b/a WILLCARE CHHA, will be approved as a general service CHHA serving Orange, Ulster and Westchester Counties and a special needs CHHA serving the OPWDD populations in Dutchess, Putnam and Sullivan Counties, and will continue to provide the services of Home Health Aide, Medical Social Services, Medical Supplies/Equipment/Appliances, Nursing, Occupational Therapy, Physical Therapy, Respiratory Therapy, Audiology, Personal Care, Homemaker, Housekeeper and Speech Language Pathology.

The Litson Certified Care, Inc. d/b/a WILLCARE plans to offer all thirteen of the required LTHHCP services as follows: audiology, home health aide, homemaker, housekeeper, medical social services, medical supply, equipment and appliances, nursing, nutritional, occupational therapy, personal care, physical therapy, respiratory therapy and speech language pathology.

Litson Certified Care, Inc. d/b/a WILLCARE is a wholly owned subsidiary of Western Region Health Corporation d/b/a WILLCARE. Western Region Health Corporation is a wholly owned subsidiary of Bracor, Inc.

Western Region Health Corporation, Inc., Litson Certified Care, Inc., and the WILLCARE LTHHCP currently operate under a management agreement with their ultimate parent corporation Bracor, Inc. Summer Street Capital II, LP; and Summer Street Capital NYS Fund II, LP, both currently operate under a management agreement with Summer Street Capital Partners, LLC.

Litson Certified Care, Inc. d/b/a WILLCARE is authorized 200 shares of stock. 181 shares have been issued to Western Region Health Corporation, Inc.; 19 shares remain unissued.

The members of the Board of Directors of Litson Certified Care, Inc. will be as follows:

Todd W. Brason, President
President and CEO, Bracor, Inc. d/b/a WILLCARE
Affiliations:

- Western Region Health Corporation, Inc. d/b/a WILLCARE (CHHA);
- Litson Certified Care, Inc. d/b/a WILLCARE (CHHA);
- Litson Healthcare, Inc. d/b/a WILLCARE (LHCSA);
- WILLCARE, Inc. (LHCSA);
- BHC Services, Inc. (Ohio CHHA and LHCSA)
- Patient's Choice Homecare, LLC d/b/a WILLCARE (Connecticut CHHA)

Michael P. McQueeney, Director
Managing Partner, Summer Street Capital Partners, LLC
Affiliations:

- Western Region Health Corporation, Inc. d/b/a WILLCARE (CHHA);
- Litson Certified Care, Inc. d/b/a WILLCARE (CHHA);
- Litson Healthcare, Inc. d/b/a WILLCARE (LHCSA);
- WILLCARE, Inc. (LHCSA);
- BHC Services, Inc. (Ohio CHHA and LHCSA)
- Patient's Choice Homecare, LLC d/b/a WILLCARE (Connecticut CHHA)

Andrew L. Fors, Director

Partner, Summer Street Capital Partners, LLC

Affiliations:

- Western Region Health Corporation, Inc. d/b/a WILLCARE (CHHA);
- Litson Certified Care, Inc. d/b/a WILLCARE (CHHA);
- Litson Healthcare, Inc. d/b/a WILLCARE (LHCSA);
- WILLCARE, Inc. (LHCSA);
- BHC Services, Inc. (Ohio CHHA and LHCSA)
- Patient's Choice Homecare, LLC d/b/a WILLCARE (Connecticut CHHA)

Western Region Health Corporation, Inc. is authorized 200 shares of stock, all of which are issued. Bracor, Inc. d/b/a is the current stockholder of the corporation and owns all 200 shares of stock.

The members of the Board of Directors of Western Region Health Corporation, Inc. will be as follows:

Todd W. Brason, President – Director
Previously Disclosed

Michael P. McQueeney - Director
Previously Disclosed

Andrew L. Fors - Director
Previously Disclosed

Bracor, Inc., a New York corporation, has 1,500,000 shares authorized, consisting of: (a) 90,000 shares of Series A Voting Common Stock, (b) 90,000 shares of Series B Non-Voting Common Stock, and (c) 1,320,000 shares of Preferred Stock, consisting of: (i) 1,200,000 shares of Series A Preferred Stock, and (ii) 120,000 shares of undesignated Preferred Stock. As of December 6, 2010, there are currently 11,970.44 shares of Series A Voting Common Stock and 474,029.55 shares of Series A Preferred Stock issued and outstanding. The board has issued to the shareholders warrants to purchase an aggregate of 30,000 shares of Series A Voting Common Stock at a purchase price of \$0.01 per share. The warrants expire on May 21, 2024. No shares of Series B Non-Voting Common Stock have been issued, though the board has granted to certain employees, directors and consultants options to purchase 33,271 shares of Series B Non-Voting Common Stock at an exercise price of \$1.23 per share. Current shareholders and their shareholdings are as follows:

<u>Shareholder</u>	<u>No. Shares Series A Voting Common Stock</u>	<u>Warrants to Purchase Shares Series A Voting Common Stock</u>	<u>No. Shares Series A Preferred Stock</u>
Summer Street Capital II, L.P.	5,758.07	14,666.67	228,019.70
Summer Street Capital NYS Fund II, L.P.	2,879.03	7,333.33	114,009.85
David Brason	1,666.67	3,000.00	66,000.00
Todd Brason	1,666.67	5,000.00	66,000.00
<i>Total</i>	<i>11,970.44</i>	<i>30,000.00</i>	<i>474,029.55</i>

The private equity investment funds themselves will be passive investors that will not exercise any control or decision making over Bracor, Inc. or over its subsidiary corporations operating the CHHAs and LTHHCP. Instead, the investment funds' management company, Summer Street Capital Partners, LLC, will be the controlling entity of the Bracor, Inc. stock holdings that are allocated to its respective funds.

The members of the Board of Directors of Bracor, Inc. will be as follows:

Todd W. Brason – President
Previously Disclosed

David W. Brason, Secretary/Treasurer
Vice President and CFO, Bracor, Inc. d/b/a WILLCARE
Affiliations:

- Western Region Health Corporation, Inc. d/b/a WILLCARE (CHHA);
- Litson Certified Care, Inc. d/b/a WILLCARE (CHHA);
- Litson Healthcare, Inc. d/b/a WILLCARE (LHCSA);
- WILLCARE, Inc. (LHCSA);
- BHC Services, Inc. (Ohio CHHA and LHCSA)
- Patient’s Choice Homecare, LLC d/b/a WILLCARE (Connecticut CHHA)

Michael P. McQueeney - Director
Previously Disclosed

Andrew L. Fors - Director
Previously Disclosed

Baris Civelek – Director
Principal, Summer Street Capital

The current partners of Summer Street Capital II, LP consist of 54 partners, whose individual partnership interests total 100%. The only two partners owning 10% or more interest in the LP are HSBC Capital (USA), Inc. with 11.7% partnership interest, and Summer Street Capital II Advisors, LLC with 17.3% partnership interest. The current partners of Summer Street Capital NYS Fund II, LP are The NYS Common Retirement Fund with 99% partnership interest, and Summer Street Capital II Advisors, LLC with 1% partnership interest. As explained above, the individual equity funds themselves will be passive investors that will not possess any voting rights in, or exercise any control or decision making over, Bracor, Inc. or its subsidiary corporations operating the CHHAs and LTHHCP. Accordingly, the individual partners within each limited partnership will also have no voting rights or control in Bracor, Inc. The investment funds’ management company, Summer Street Capital Partners, LLC, will be the sole voting and controlling entity of the Bracor, Inc. stock holdings that are allocated to its respective funds.

The current members of the managing company of the two Summer Street funds, Summer Street Capital Partners, LLC, and the percentage of member ownership interest for each, are as follows:

Michael P. McQueeney – 35.8% interest
Managing Member
Previously Disclosed

Andrew L. Fors – 16.5% interest
Previously Disclosed

Jennifer C. Balbach – 5.9% interest
Partner, Summer Street Capital Partners, LLC

Brian T. D’Amico – 27.6% interest
Managing Partner, Summer Street Capital Partners, LLC

Gary P. Hull – 14.2% interest
Partner, Summer Street Capital Partners, LLC

A search of all of the above named individuals, 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 Division of Home and Community Based Care reviewed the compliance histories of the above named CHHAs, LHCSAs, and LTHHCP. It has been determined that the agencies have exercised sufficient supervisory responsibility to protect the health, safety, and welfare of patients and to prevent the recurrence of code violations.

Out-of-State Compliance Request Forms were sent to Ohio and Connecticut. The licensing/regulating agency of the state of Ohio has reviewed the compliance history of the above noted health care provider, for the time period 1996 to present. Ohio has determined that the health care provider has been in substantial compliance with all applicable codes, rules, and regulations, with no enforcements or administrative actions imposed.

The applicant has provided sufficient evidence that they have contacted Connecticut, but at this time Connecticut has been unresponsive.

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, approval is recommended.

<h2>Financial Analysis</h2>

Asset Purchase Agreement

The change in operational ownership will be effectuated in accordance with a draft asset purchase agreement, the terms of which are summarized below:

<i>Seller:</i>	County of Ulster
<i>Buyer:</i>	Litson Certified Care, Inc.
<i>Assets Transferred:</i>	The business and operation of the facility; the lease; furniture, fixtures and equipment; inventory and supplies; assignable contracts, licenses and permits; resident funds; the name Evergreen Valley Nursing Home; security deposits and prepayments; menus, policies and procedure manuals, phone numbers, financial books and records; resident and employee records, and Medicare and Medicaid provider numbers.
<i>Excluded Assets:</i>	Accounts Receivables; cash, deposits other than resident funds; marketable securities; retroactive rate increases, and appeal proceeds relating to periods prior to closing.
<i>Assumed Liabilities:</i>	Those relating to transferred assets.
<i>Excluded Liabilities:</i>	Those relating to excluded assets.
<i>Purchase Price:</i>	\$1,400,000 with a \$50,000 down payment upon execution of agreement, \$950,000 at closing with the remaining \$400,000 in eight quarterly installments at 7% interest. In the event seller does not surrender its operating certificate to NYSDOH within two years of the closing date, the sale price will be reduced by \$100,000.

The applicant has provided 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.

Operating Budget

The applicant has submitted an operating budget for the first and third years, in 2010 dollars, which is summarized below:

	<u>Year One</u>	<u>Year Three</u>
Total Revenue	\$1,973,865	\$2,599,152
Total Expenses	<u>1,874,819</u>	<u>2,107,907</u>
Net Income	<u>\$99,046</u>	<u>\$491,245</u>

Incremental expenses and utilization is detailed as follows:

<u>Year One</u>			
<u>Service</u>	<u>Total Cost</u>	<u>Visits/Hours</u>	<u>Cost/Visit</u>
Nursing	\$ 286,827	2,151	\$133.35
Physical Therapy	107,131	1,057	101.35
Occupational Therapy	44,113	443	99.58
Personal Care Aides*	1,436,748	66,050	21.75

<u>Year Three</u>			
<u>Service</u>	<u>Total Cost</u>	<u>Visits/Hours</u>	<u>Cost/Visit</u>
Nursing	\$ 329,168	2,628	\$125.25
Physical Therapy	121,191	1,567	77.34
Occupational Therapy	48,194	657	73.36
Personal Care Aides*	1,609,353	84,806	18.98

*Presented in hours.

Utilization by payor source is 100% Medicaid. Expense and utilization assumptions are based on the Ulster County LTHHCP Program's historical experience. Revenues are reflective of Willcare's current payment rates.

Capability and Feasibility

There are no project costs associated with this application. The Asset Purchase price is \$1,400,000, whereas \$50,000 will be paid upon execution and \$950,000 paid at time of closing from the available resources of Bracor Inc. d/b/a Willcare, which has short-term financing through a line of credit. The remaining \$400,000 to be paid at 7% interest over eight quarterly installments.

Working capital requirements, estimated at \$312,470, appear reasonable based on two months of first year expenses and will be provided through the existing operation. Presented as BFA Attachment C, is the pro forma balance sheet of Willcare.

The submitted budget indicates that the applicant will maintain a \$99,046 and \$491,245 net profit in the first and third years of operations, respectively. Based on the 2010 ceiling payments for LTHHCP services, the projected revenues are below the ceilings with the exception of the first year Occupational rates, which will decrease the first year budget by \$10,353. Revenue is based on current payment rates for long term home health care services. Based on the 2011-2012 State budget estimated impact, the third year budget will decrease by \$56,712, resulting in a \$434,533 revised net profit.

Presented as BFA Attachment A is the organizational chart for Bracor, Inc. d/b/a Willcare and its subsidiaries.

Presented as BFA Attachment B, is the financial summary of Bracor Inc. d/b/a Willcare, which shows the applicant has experienced negative working capital and has maintained positive retained earnings and a net profit from operations for 2008 and 2009. Willcare, Inc. and subsidiary have maintained positive working capital, stockholder's equity and a net profit from operations in 2008 - 2010. The 2008 and 2009 negative working capital incurred by Bracor Inc. was due to a stock purchase agreement in 2008, and an increase in the demand note payable in order for the company to maintain compliance with certain financial covenants in 2009.

Based on proceeding, and subject to the noted contingency, it appears that the applicant has demonstrated the financial capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Organizational Chart, Bracor, Inc. d/b/a Willcare
BFA Attachment B	Financial Summary for Willcare
BFA Attachment C	Pro Forma Balance Sheet, Willcare LTHHCP



Public Health and Health Planning Council

Project # 101156-E

**L. Woerner, Inc.,
d/b/a HCR**

**County: Monroe (Rochester)
Purpose: Establishment**

**Program: Certified Home Health Agency
Submitted: June 15, 2010**

Executive Summary

Description

L. Woerner, Inc., d/b/a HCR, an existing Article 36 certified home health agency (CHHA) and licensed home care services agency (LHCSA) serving Monroe County, wishes to purchase and become the new owner/operator of Orleans County Department of Health CHHA, serving Orleans County.

HCR plans to merge the Orleans County Department of Health CHHA's operations into its existing HCR CHHA operations serving Genesee and Monroe Counties, and close the Orleans County CHHA. HCR proposes to serve its 27 CHHA patients living in Orleans County from its recently licensed Genesee County branch office.

DOH Recommendation
Approval.

Need Summary

HCR plans to merge the County Department's CHHA into its existing CHHA operations. HCR will add Orleans County to its service area and to its existing CHHA operating certificate.

Program Summary

Ownership of L. Woerner, Inc. d/b/a HCR is as follows:

Employee Stock Ownership Plan	90%
Louise Woerner	7%
Mark Maxim	3%

HCR and its principals all possess the appropriate character and competence for approval of this application.

Financial Summary

The total purchase price of \$500,000 will be met from equity from operations of L. Woerner, Inc.

Budget:	<i>Revenues:</i>	\$ 1,027,270
	<i>Expenses:</i>	<u>920,386</u>
	<i>Net Income:</i>	\$ 106,884

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

Architectural Summary

This project is for Establishment only; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Approval conditional upon:

1. Approval conditioned upon proper notice being given to all employees participating in the employee stock ownership plan (ESOP) of the potential for an audit risk due to the lack of a legal separation between the CHHA and the LHCSA as it relates to payment structures. [CHA]
2. Approval conditioned upon no employee, or any other individual, owning/controlling 10% or more of the stock without first obtaining Department of Health and/or Public Health and Health Planning Council approval, as appropriate. [CHA]

Council Action Date

June 16, 2011.

Need Analysis

Background

L. Woerner, Inc. d/b/a HCR is a proprietary Certified Home Health Agency (CHHA) located at 85 Metro Park, Rochester.

It is certified to provide the following services in Monroe County;

- Home Health Aide
- Medical Social Services
- Medical Supply Equipment
- Nursing
- Nutritional
- Occupational Therapy
- Personal Care
- Physical Therapy
- Respiratory Therapy
- Speech/Language Pathology

Orleans County Department of Health's Certified Home Health Agency, located at 14012 Route 31 West, Albion, N.Y. 14411 is certified to provide the following services in Orleans County:

- Home Health Aide
- Medical Supplies Equipment
- Nursing
- Occupational Therapy
- Physical Therapy

Utilization

Utilization for Orleans County Department of Health's CHHA is shown below for 2008.

<u>Service</u>	<u>2008</u>	<u>2009</u>
Nursing	5,078	5,686
Physical Therapy	2,570	3,096
Occupational Therapy	239	330
Speech/Language Pathology	-	-
Medical Social Work	-	-
Medical Social Work	-	-
Home Health Aide	1,132	949
Total	9,019	10,061

Between 2008 and 2009, the CHHA increased its total visits by 11.55%. The applicant expects to provide the same level of service after the change in ownership.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

L. Woerner, Inc., a business corporation operating under the assumed name of HCR (Home Care of Rochester), was established as the operator of an Article 36 certified home health agency (CHHA) serving Monroe and Genesee Counties, a Long Term Home Health Care Program (LTHHCP) serving Genesee County and an Article 36 licensed home care service agency (LHCSA) under the same assumed name. There are no other parent, subsidiary, or affiliate corporations.

HCR is applying for approval to purchase and become the new owner/operator of Orleans County Department of Health Home Health Agency, serving Orleans County. HCR plans to merge the Orleans County Department of Health Home Health Agency's operations into its existing HCR CHHA operations, and close Orleans County Department of Health Home Health Agency. HCR proposes to serve its CHHA patients living in Orleans County from its recently licensed Genesee County branch office location, located at 3837 West Main Street Road, Batavia, New York 14020. The CHHA/LTHHCP main office will remain in Monroe County at 85 Metro Park, Rochester, New York 14623. The HCR CHHA, which would now be approved to serve Monroe, Genesee and Orleans Counties, will continue to provide the services of Home Health Aide, Medical Social Services, Medical Supplies/Equipment/Appliances, Nursing, Nutrition, Personal Care, Occupational Therapy, Physical Therapy, Respiratory Therapy and Speech Language Pathology.

In 2006, L. Woerner, Inc, d/b/a HCR, CON project #061088-E, received Public Health Council approval to convert 90% of the shares of corporate stock (which up to that time were owned 90.5% by Louise Woerner and 9.5% by Mark Maxim - both disclosed below), to an Employee Stock Ownership Plan (ESOP), and establish a trust to control and manage the assets, including the stock, held by the ESOP. Ms. Woerner retained 7% of the shares, and Mr. Maxim retained 3% of the shares.

Each employee participating in the ESOP does not actually take ownership of the stock itself, but instead has a separate stock account in the trust to hold his/her allocation of stock. Ms. Woerner and Mr. Maxim are named the sole voting trustees of the ESOP trust, with the power to: manage and control the assets, including the stock, held in the trust; sell, exchange, transfer, or grant options for any property held in the trust; and vote all allocated and unallocated shares of stock. Employees participating in the ESOP instruct the trustees in the manner to vote the shares of stock allocated to their stock account only in the event of corporate merger, consolidation, recapitalization, reclassification, liquidation, dissolution, or sale of substantially all assets of the company or similar transaction. Additional trustees may be designated in the future, but they will not have any voting rights. The Certificate of Amendment to the Certificate of Incorporation stated that the corporation's stock shall be held only by employees of L. Woerner, Inc., d/b/a HCR, or any of its wholly owned subsidiaries, or by the ESOP trust. Employees participating in the ESOP may not sell, transfer, assign, pledge, or encumber the shares of stock allocated to their stock account. Dividends will be allocated among, and credited to, each participant's stock accounts on the basis of the number of shares held by the participant's account. The applicant had confirmed, and has restated such confirmation for this current project proposal, that no employee controls 10% or more of the stock, or will control 10% or more of the stock without first obtaining Department of Health and/or Public Health Council approval, as appropriate.

CON project #061088-E also noted that L. Woerner, Inc., d/b/a HCR, operates both a CHHA and LHCSA out of a single corporation. The Department has discouraged this type of arrangement because of the different regulatory requirements and payment structures applicable to CHHAs and LHCSAs. L. Woerner, Inc., d/b/a HCR wished to retain its current corporate arrangement, thus placing the agency at potential risk for future audit liabilities due to there being two different payment structures for the same service within a single corporation. Therefore, the Department required the agency to provide written notification, approved by the Department, to all participants in the ESOP of the possible loss in dividends resulting from the audit risk posed by the corporate structure. The applicant had confirmed, and has restated such confirmation for this current project proposal, that the agency continues to provide such written notification, as previously approved by the Department, to all participants in the ESOP of the possible loss in dividends resulting from the audit risk posed by the corporate structure.

The corporation is currently authorized 2,000,000 shares of stock. The stockholders and stock distribution are as follows:

Employee Stock Ownership Plan Trust	– 1,800,000 shares (90%)
Louise Woerner	– 140,000 shares (7%)
Mark Maxim	– 60,000 shares (3%)

The Trustees of the Employee Stock Ownership Plan Trust are as follows:

Louise Woerner

Chief Executive Officer, L. Woerner, Inc., d/b/a HCR (CHHA and LHCSA)

Affiliations:

- HealthNow New York, Inc., Buffalo (Managed Care Program) – 4/1/02 to 4/10/08

Mark Maxim, CPA

Chief Operating Officer / Administrator, L. Woerner, Inc., d/b/a HCR (CHHA and LHCSA)

Affiliations:

- Lakeside Memorial Hospital, Inc., Brockport (Hospital) - 5/3/06 to present

The members of Board of Directors of L. Woerner, Inc., d/b/a HCR, are as follows:

Louise Woerner

Previously Disclosed

Don H. Kollmorgen

Retired

Mark Maxim, CPA

Previously Disclosed

Carolyn A. Maxim, LMSW

Owner, Carolyn A. Maxim, LMSW (Counseling Services)

The Officers of L. Woerner, Inc., d/b/a HCR, are as follows:

Louise Woerner

Chief Executive Officer and Secretary
Previously Disclosed

Edward F. Reif, CPA

Vice President and Treasurer
Chief Financial Officer, L. Woerner, Inc., d/b/a HCR (CHHA and LHCSA)

Mark Maxim, CPA

President
Previously Disclosed

The Office of the Professions of the State Education Department indicates no issues with the CPA licensures of Mr. Maxim and/or Mr. Reif or with the LMSW license of Ms. Maxim. In addition, a search of all of the above named trustees, board members, officers, employers, and health care affiliations revealed no matches on either the Medicaid Disqualified Provider List or the Office of the Inspector General's Provider Exclusion List.

The Division of Home and Community Based Services reviewed the compliance history of both the CHHA and the LHCSA operated by L. Woerner, Inc., d/b/a HCR, for the time period 1999 to present and the LTHHCP from the period of May 2010 to present. It has been determined that the CHHA, LTHHCP and LHCSA have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent any recurrent code violations. The CHHA, LTHHCP and LHCSA have been in substantial compliance with all applicable codes, rules, and regulations, with no enforcement or administrative action imposed.

The Division of Primary and Acute Care Services reviewed the compliance history of Lakeside Memorial Hospital, Inc., for the time period May 3, 2006 to present. It has been determined that the affiliated hospital has been in substantial compliance with all applicable codes, rules, and regulations, with no enforcement or administrative action imposed, during that time period.

The Office of Managed Care reviewed the compliance history of HealthNow New York, Inc., for the time period April 1, 2002 to April 10, 2008. It has been determined that the affiliated managed care program has been in substantial compliance with all applicable codes, rules, and regulations, with no enforcement or administrative action imposed, during that time period.

A review of the personal qualifying information indicates there is nothing in the background of the principal stockholders, trustees, board members, and officers to adversely effect their positions with L. Woerner, Inc., d/b/a HCR. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, conditional approval is recommended.

Financial Analysis

Background

The Employee Stock Ownership Plan (ESOP) was established as a benefit to L. Woerner, Inc.'s employees. The ESOP established a trust agreement into which L. Woerner, Inc. d/b/a HCR intends to place 90% of its stock. Each participating employee will have a separate account in the trust to hold the employee stock. Participants may not sell, transfer, assign, pledge, or encumber their interest in the Trust. ESOP participants will be permitted to instruct the voting trustees as to the manner in which the shares of stock allocated to their account will be voted, only in the event of a corporate merger, consolidation, recapitalization, reclassification, liquidation, or dissolution sale of substantially all assets of the HCR.

HCR's corporate by-laws were amended to provide that only HCR employees may own its stock. Participants will only be entitled to a distribution from the Trust after separating from employment. Participants will not have rights to the stock; only cash payments equal to the fair market value of the stock, or any other asset in their account.

The HCR ESOP purchased 90% of the HCR stock for approximately \$15,300,000. The ESOP trust will have approximately \$3,500,000 cash initially. Interest bearing Notes payable by the ESOP Trust to the selling shareholders funded the balance of the purchase price, approximately \$11,800,000. The notes will be paid when the facility has excess cash flow. The ESOP will depend on future ESOP contributions to pay the notes. Annual payments will be apportioned based on the percentage of stock sold to the ESOP Trust by each present shareholder.

Asset Purchase Agreement

The applicant has submitted an executed asset purchase agreement, the terms of which are summarized below:

<i>Date:</i>	May 27, 2010
<i>Seller:</i>	County of Orleans
<i>Buyer:</i>	L.Woerner, Inc. d/b/a HCR
<i>Assets Transferred:</i>	The Certified Home Health Agency (CHHA) Operating Certificate; copies of all current patient lists and patient files, with pending orders; treatment plans, and clinical records; all of Seller's rights under the Assumed Provider Agreements and any and all of Seller's rights under the Assumed Operating Certificate.
<i>Assumed Liabilities:</i>	None
<i>Purchased Price:</i>	\$500,000
<i>Payment of Purchase Price:</i>	\$50,000 paid at execution of agreement \$450,000 paid at closing

The applicant has provided 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, assessment or fees due from the transferor pursuant to Article 28 to 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 this date, there are no outstanding liabilities.

Operating Budget

The applicant has submitted an operating budget for the CHHA, in 2010 dollars, for the first year subsequent to the change in operator, summarized as follows:

CHHA

Revenues	\$1,027,270
Expenses	<u>920,386</u>
Net Income	\$ 106,884

Expenses are further broken down as follows:

	<u>Total Cost</u>	<u>Visit/Hours</u>	<u>Cost Per Visit/Hour</u>
Nursing	\$529,174	5,592	\$94.63
Physical Therapy	302,392	2,797	\$108.11
Speech Pathology	1,491	11	\$135.54
Occupational Therapy	27,596	255	\$108.21
*Home Health Aide	58,242	1,288	\$45.22
Medical Social Services	<u>1,491</u>	11	\$135.54
<i>Total</i>	\$920,386		
<i>* Hours</i>			

Utilization by payor source from the CHHA for the first year subsequent to the change in operator is as follows:

Medicaid Fee-For-Service	13.71%
Medicare Fee-For-Service	28.72%
Commercial Fee-For-Service	47.90%
Private Pay	7.01%
Charity Care	2.66%

Expense and utilization assumptions are based on the historical experience of Orleans County's CHHA and the experience of the applicant in operating a CHHA.

Capability and Feasibility

The applicant will provide equity of \$500,000 to be derived from operations, of which \$50,000 was paid upon execution of the agreement, the balance to be paid at closing.

Working capital requirements are estimated at \$154,000, which appears reasonable based on two months of first year expenses subsequent to the change in operator. The applicant will provide equity from operations to meet the working capital requirement.

Presented as BFA Attachment B, is the financial summary of L. Woerner, Inc. d/b/a HCR which includes the internal financial statement through December 31, 2010, which indicates the availability of sufficient funds to meet the equity contributions for the purchase price and working capital.

The submitted budget indicates an excess of revenues over expenses of \$106,884 during the first year subsequent to the change in operator. Revenues are based on current reimbursement rates for CHHA services.

As shown on BFA Attachment A, the applicant had an average positive working capital position and an average negative net asset position during the period shown. The applicant has indicated that Generally Accepted Accounting Principles (GAAP) requires leveraged ESOP's to treat ESOP shares purchased with debt to be treated as treasury stock. Therefore, until the note payable is fully paid, there will be a contra-account to Stockholders Equity entitled "Unearned ESOP shares". The applicant has indicated that the contra-account will decrease as the related note is paid, which will in turn reduce (and eliminate) the negative asset position. The applicant achieved an average income of \$2,118,021 during 2008 and 2009. Also, the applicant achieved a net income of \$2,379,945 through the period June 30, 2010.

Presented as BFA Attachment C are the 2008 and 2009 revenues and expenses for Orleans County Health Department. As shown on Attachment B, the county incurred an excess of revenues over expenses of \$146,859 and \$29,042 during 2008 and 2009, respectively.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	2008-2009 Financial Summary- L.Woerner, Inc. d/b/a HCR
BFA Attachment B	Internal December 31, 2010 Financial Summary – L. Woerner, Inc. d/b/a HCR
BFA Attachment C	2008 and 2009 Revenues and Expenses for Orleans County
BFA Attachment D	Establishment Checklist



Public Health and Health Planning Council

Project # 102080-E
**Genesee Region Home Care Association
d/b/a Lifetime Care**

County: Monroe (Rochester)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: July 28, 2010

Executive Summary

Description

Genesee Region Home Care Association, Inc. d/b/a Lifetime Care, an existing Article 36 not-for-profit corporation located at 3111 South Winton Road, Rochester, seeks approval to purchase and become the operator of Cayuga County Certified Home Health Agency (CHHA) and Long Term Home Health Care Program (LTHHCP) located at 8 Dill Street, Auburn, servicing Cayuga County.

Lifetime Care currently operates an Article 36 CHHA servicing Livingston, Monroe, Seneca and Wayne Counties and a LTHHCP servicing Seneca, Wayne and Yates Counties.

The Cayuga County CHHA and LTHHCP currently operate under a management and administrative services agreement with Lifetime Care, approved by the Department on April 19, 2010. Upon required approvals, Cayuga County CHHA and LTHHCP will close. Lifetime Care plans to maintain all existing CHHA and LTHHCP services, including home health aide, medical social services, medical supply equipment and appliances, nursing, nutritional, occupational therapy, personal care, physical therapy, respiratory therapy, speech language pathology, homemaker and housekeeper. Lifetime Care will also retain the current staff of the Cayuga County CHHA and LTHHCP.

Genesee Region Home Care Association, Inc. (Genesee) also operates a hospice and is a "sister" corporation to Genesee Region Home Care of Ontario County, Inc. d/b/a Home Care Plus, a not-for profit licensed home care services agency.

DOH Recommendation

Contingent approval.

Need Summary

As this project only involves a CHHA/LTHHCP change of ownership, no Need review is required.

Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the board members of Genesee Region Home Care Association, Inc. d/b/a Lifetime Care, North Star Home Health Management, Inc., Excellus Health Plan, Inc. and Lifetime Healthcare, Inc. to adversely effect their positions on the boards. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary

The total purchase price of \$1,000,000 will be met with equity from the applicant.

Budget:	<i>Revenues:</i>	\$ 3,954,921
	<i>Expenses:</i>	<u>3,338,138</u>
	<i>Gain/(Loss):</i>	\$ 616,783

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

Architectural Summary

This project involves no construction; therefore, no Architectural recommendation is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of an original affidavit from the applicant, 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. [BFA]
2. Submission of a copy of the certificate of incorporation and bylaws for the member corporation, North Star Home Health Management, Inc., acceptable to the Department. [CSL]

Council Action Date

June 16, 2011.

Programmatic Analysis

Background

Genesee Region Home Care Association, Inc. d/b/a Lifetime Care is a not-for-profit corporation which operates an Article 36 certified home health agency (CHHA) located in Rochester and approved to serve patients in Livingston, Monroe, Seneca and Wayne Counties. In addition, Lifetime Care also operates a long term home health care program (LTHHCP) approved to serve patients in Seneca, Wayne and Yates Counties, and a freestanding hospice facility. Lifetime Care seeks approval to purchase and become the new operator of the Cayuga County CHHA and 75 slot LTHHCP which is approved to serve patients in Cayuga County. Lifetime Care plans to purchase both the CHHA and the LTHHCP from Cayuga County, and merge the CHHA and LTHHCP into Lifetime Care's existing CHHA and LTHHCP operations.

The Cayuga County CHHA and LTHHCP currently operate under a Management and Administrative Services Agreement with Lifetime Care which was approved by the Department on April 19, 2010.

Lifetime Care plans to offer the following home health services through the CHHA: home health aide, medical social services, medical supply, equipment and appliances, nursing, nutritional, occupational therapy, personal care, physical therapy, respiratory therapy and speech language pathology.

Lifetime Care plans to offer all thirteen of the required LTHHCP services as follows: audiology, home health aide, homemaker, housekeeper, medical social services, medical supply, equipment and appliances, nursing, nutritional, occupational therapy, personal care, physical therapy, respiratory therapy and speech language pathology.

The sole corporate member of Genesee Region Home Care Association, Inc. d/b/a Lifetime Care, a not-for-profit corporation, is North Star Home Health Management, Inc., a not-for-profit corporation. The sole corporate member of North Star Home Health Management, Inc. is Excellus Health Plan, Inc. The sole corporate member of Excellus Health Plan, Inc. is Lifetime Healthcare, Inc., a not-for-profit holding company.

The Board of Directors of Genesee Region Home Care Association, Inc. d/b/a Lifetime Care consist of the following individuals:

<p>Leonard E. Redon, Chairperson Vice President, Paychex, Inc.</p> <p><u>Affiliations:</u> Genesee Regional Health Care of Ontario County, Inc.</p>	<p>Charles H. Stuart, Vice Chairperson Financial Advisor, Morgan Stanley Smith Barney</p> <p><u>Affiliations:</u> Genesee Regional Health Care of Ontario County, Inc.</p>
<p>Jordon I. Brown, Treasurer Executive VP, Lifetime Assistance, Inc.</p> <p><u>Affiliations:</u> Genesee Regional Health Care of Ontario County, Inc.</p>	<p>John B. Biemiller, Board Member Senior VP, Whitney & Co. (investment management)</p> <p><u>Affiliations:</u> GRIPA, Genesee Regional Health Care of Ontario County, Inc.</p>
<p>Marilyn L. Dollinger, R.N., Board Member Associate Dean, St. John Fisher College</p> <p><u>Affiliations:</u> St. John's Health Care Corporation, St. John's Senior Services, Genesee Regional Health Care of Ontario County, Inc.</p>	<p>William A. Johnson, Jr., Board Member Professor, Rochester Institute of Technology</p> <p><u>Affiliations:</u> Genesee Regional Health Care of Ontario County, Inc.</p>
<p>David H. Klein, Board Member CEO, Genesee Region Home Care</p>	<p>Mordecai J. Kolko, Board Member Retired</p>

<p>Association, Inc., CEO, North Star Home Health Management, Inc. and CEO, Excellus Health Plan, Inc.</p> <p><u>Affiliations:</u> Excellus Health Plan, Inc.; Genesee Regional Health Care of Ontario County, Inc.; Sibley Nursing Personnel Services, Inc.; Genesee Valley Group Health Association (D&T)</p>	
<p>John J. Mahoney, Board Member Principal, Summit Business Group, LLC (consulting)</p> <p><u>Affiliations:</u> Genesee Regional Health Care of Ontario County, Inc.</p> <p>David D. Reh, Board Member President, The Raytec Group, Inc. (administrative services)</p> <p><u>Affiliations:</u> Excellus Health Plan, Inc.; Genesee Regional Health Care of Ontario County, Inc.</p> <p>Casper F. Sedgwick, Board Member Retired</p> <p><u>Affiliations:</u> Excellus Health Plan, Inc.; Genesee Regional Health Care of Ontario County, Inc.; Loretto Management Corporation</p>	<p>Jagat S. Mehta, M.D., Board Member Self-employed physician</p> <p><u>Affiliations:</u> Genesee Regional Health Care of Ontario County, Inc.</p> <p>Hilda E. Rosario-Escher, Board Member President & CEO, Ibero American Action League</p> <p><u>Affiliations:</u> Rochester Psychiatric Center, Huther-Doyle, Genesee Regional Health Care of Ontario County, Inc., Office of Mental Health</p> <p>Seymour M. Zivan, Board Member Retired</p>

The Board of Directors of North Star Home Health Management, Inc. consist of the following individuals:

Leonard E. Redon , Chairperson (disclosed above)	Charles H. Stuart , Vice Chairperson (disclosed above)
Jordon I. Brown , Treasurer (disclosed above)	John B. Biemiller , Board Member (disclosed above)
Marilyn L. Dollinger , R.N., Board Member (disclosed above)	William A. Johnson, Jr. , Board Member (disclosed above)
David H. Klein , Board Member (disclosed above)	Mordecai J. Kolko , Board Member (disclosed above)
John J. Mahoney , Board Member (disclosed above)	Jagat S. Mehta, M.D. , Board Member (disclosed above)
David D. Reh , Board Member (disclosed above)	Hilda E. Rosario-Escher , Board Member (disclosed above)
Casper F. Sedgwick , Board Member (disclosed above)	Seymour M. Zivan , Board Member (disclosed above)

The Board of Directors of Excellus Health Plan, Inc. consist of the following individuals:

Randall L. Clark , Chairperson Chairman, Dunn Tire, LLC	Leonard E. Redon , Vice Chairperson (disclosed above)
Casper F. Sedgwick , Vice Chairperson (disclosed above)	Hermes L. Ames, III , Board Member Retired <u>Affiliations</u> : Well Choice, Inc. (Empire BCBS)
Natalie L. Brown , Board Member Executive Director, YWCA Mohawk Valley <u>Affiliations</u> : Faxton-St. Luke's Healthcare	Thomas S. Coughlin , Board Member Retired
John G. Doyle, Jr. , Board Member President, Doyle Security Systems, Inc.	Austin T. Hildebrandt , Board Member President, Hillside Children's Foundation
Thomas Y. Hobart, Jr. , Board Member Retired	David H. Klein , Board Member (disclosed above)
Joseph F. Kurnath, M.D. , Board Member Partner, Partners in Internal Medicine <u>Affiliations</u> : Genesee Regional Health Care of Ontario County, Inc.	Daniel R. Mackenzie, M.D. , Board Member President & CEO, Cayuga Medical Center at Ithaca <u>Affiliations</u> : Cayuga Medical Center
Patrick A. Mannion , Board Member Chairman, President, CEO, COO, EVP & SVP, Unity Mutual Life Insurance Company	Thomas E. Rattmann , Board Member Chairman/CEO, Columbian Financial Group
George F.T. Yancey, Jr. , Board Member Managing Director, Delta Point Capital	

The Board of Directors of Lifetime Healthcare, Inc. consist of the following individuals:

Randall L. Clark , Chairperson Chairman, Dunn Tire, LLC	Leonard E. Redon , Vice Chairperson (disclosed above)
Casper F. Sedgwick , Vice Chairperson (disclosed above)	Hermes L. Ames, III , Board Member Retired <u>Affiliations</u> : Well Choice, Inc. (Empire BCBS)
Natalie L. Brown , Board Member Executive Director, YWCA Mohawk Valley <u>Affiliations</u> : Faxton-St. Luke's Healthcare	Thomas S. Coughlin , Board Member Retired
John G. Doyle, Jr. , Board Member President, Doyle Security Systems, Inc.	Austin T. Hildebrandt , Board Member President, Hillside Children's Foundation
Thomas Y. Hobart, Jr. , Board Member Retired	David H. Klein , Board Member (disclosed above)

Joseph F. Kurnath, M.D. , Board Member Partner, Partners in Internal Medicine <u>Affiliations:</u> Genesee Regional Health Care of Ontario County, Inc.	Daniel R. Mackenzie, M.D. , Board Member President & CEO, Cayuga Medical Center at Ithaca <u>Affiliations:</u> Cayuga Medical Center
Patrick A. Mannion , Board Member Chairman, President, CEO, COO, EVP & SVP, Unity Mutual Life Insurance Company	Thomas E. Rattmann , Board Member Chairman/CEO, Columbian Financial Group
George F.T. Yancey, Jr. , Board Member Managing Director, Delta Point Capital	

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 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 professionals associated with this application. In addition, the attorneys have all submitted Certificates of Good Standing.

A ten year review of the operations of the agencies/facilities listed below was performed as part of this review (unless otherwise noted):

- Genesee Region Home Care of Ontario County, Inc. d/b/a Home Care Plus (LHCSA)
- Genesee Region Home Care Association, Inc. (hospice)
- Genesee Region Home Care Association, Inc. d/b/a Lifetime Care (CHHA)
- Genesee Region Home Care Association, Inc. d/b/a Lifetime Care (LTHHCP)
- Sibley Nursing Personnel Services, Inc. (LHCSA) (2003 – present)
- Visiting Nurse Service of New York Home Care (CHHA)
- Partners in Care, Inc. (LHCSA)
- Genesee Valley Group Health Association, Inc. d/b/a Lifetime Health Medical Group (2003 – present)
- Excellus Health Plan, Inc. d/b/a Finger Lakes HMO, Upstate HMO & Univera Health Care (HMO)
- Well Choice, Inc. (Empire BCBS) (HMO) (2000 – 2005)
- Faxton-St. Luke’s Healthcare (hospital) (2001 – 2004)
- Cayuga Medical Center (hospital) (2003 – present)
- Loretto Geriatric Center (2000 – 2001)
- Loretto –Oswego Health and Rehabilitation Center (2000 – 2001)
- Nottingham RHCF (2000 – 2001)
- Loretto Rest, Inc. (ACF) (2000 – 2001)
- Churchill Manor, Inc. (ACF) (2000 – 2001)
- Loretto Geriatric Community Residences, Inc. (ACF) (2000 – 2001)
- Loretto Adult Community, Inc. (ACF) (2000 – 2001)
- Elbridge Adult Community, Inc. (ACF) (2000 – 2001)
- The Nottingham Retirement Community, Inc. (ACF) (2000 – 2001)

Cayuga Medical Center was cited for violations of 10 NYCRR Sections 405.2 Governing Body, 405.10 Medical Records and 405.12 Surgical Services, based inspections findings of July 31, 2008. The stipulation and order has been signed by the agency with a fine amount of \$8,000.

The Division of Certification and Surveillance reviewed the compliance histories of the hospitals and diagnostic and treatment center for the time periods specified. It has been determined that these facilities have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations. When code violations did occur, it was determined that the operators investigated the circumstances surrounding the violation and took steps appropriate to the gravity of the violation that a reasonably prudent operator would take to promptly correct and prevent the recurrence of the violation.

The Division of Residential Services reviewed the compliance history of the affiliated residential health care facilities for the time period specified as the affiliation. It has been determined that the residential health care facilities have been in substantial compliance with all applicable codes, rules, and regulations, with no enforcement or administrative action imposed.

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

The information provided by the Bureau of Managed Care Certification and Surveillance has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The Division of Home and Community Based Services reviewed the compliance histories of the certified home health agencies, licensed home care services agencies, long term home health care program and hospice for the time periods specified. It has been determined that these agencies have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations. When code violations did occur, it was determined that the operators investigated the circumstances surrounding the violation and took steps appropriate to the gravity of the violation that a reasonably prudent operator would take to promptly correct and prevent the recurrence of the violation.

A review of all personal qualifying information indicates there is nothing in the background of the board members of Genesee Region Home Care Association, Inc. d/b/a Lifetime Care, North Star Home Health Management, Inc., Excellus Health Plan, Inc. and Lifetime Healthcare, Inc. to adversely effect their positions on the boards. 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

Genesee is a membership corporation with two classes of members. The Class A member is North Star Home Health Management, Inc.; the Class B members are the elected directors of Genesee.

Genesee is a wholly owned subsidiary of Excellus Health Care, Inc. Presented as BFA Attachment A, is the Organizational chart of Lifetime Health Care, Inc..

Asset Purchase Agreement

The applicant has submitted an executed asset purchase agreement, the terms of which are summarized below:

<i>Date:</i>	July 27, 2010
<i>Seller:</i>	Cayuga County
<i>Buyer:</i>	Genesee Region Home Care, Association, Inc.
<i>Assets Transferred:</i>	The home care business assets consisting of the books and records, any permits and similar rights to the extent transferable and related solely to the operation of the home care business, patient medical records, and any contracts, leases or licenses.
<i>Assumed Liabilities:</i>	None
<i>Purchase Price:</i>	\$1,000,000

Payment of Purchase Price: \$1,000,000 paid at time of closing.

Operating Budget

The applicant has submitted an operating budget for the CHHA and the LTHHCP in 2010 dollars, for the first year subsequent to the change in operator, as summarized below:

CHHA

Revenues: \$ 3,926,858
 Expenses: 3,310,876
 Gain/(Loss): \$ 615,982

Expenses are further broken down as follows:

	<u>Total Cost</u>	<u>Visit/Hours</u>	<u>Cost/Visit/Hour</u>
Nursing	\$2,176,116	15,064	\$144.46
Physical Therapy	662,671	5,594	\$118.46
Speech Therapy	23,032	168	\$137.10
Occupational Therapy	136,627	1,140	\$119.85
Medical Social Services	15,859	124	\$127.90
Home Health Aides*	<u>296,571</u>	11,295	\$26.26
Total	\$3,310,876		

* Reported in hours

Utilization by payor source for the CHHA for the first year subsequent to the change in operator is as follows:

Medicare Managed Care	62%
Medicaid FFS	18%
Commercial FFS	10%
Commercial Managed Care	8%
Charity Care	2%

LTHHCP

Revenues: \$ 28,063
 Expenses: 27,262
 Gain/(Loss): \$ 801

Expenses are further broken down as Follows:

	<u>Total Cost</u>	<u>Visit/Hours</u>	<u>Cost/Visit/Hour</u>
Nursing	\$8,135	61	\$133.36
Physical Therapy	329	3	\$109.67
Personal Care*	4,805	178	\$26.99
Medical Social Services	375	3	\$125.00
Home Health Aides*	<u>13,618</u>	496	\$27.46
Total	\$27,262		

* Reported in hours

Utilization by payor source for the LTHHCP for the first year subsequent to the change in operator is as follows:

Medicaid Fee For Service	98%
Charity Care	2%

Expense and Utilization assumptions are based on the historical experience of Cayuga County's CHHA and LTHHCP, and the experience of the applicant in operating a CHHA and LTHHCP.

The combined revenues and expenses during the first year subsequent to the change in operator are as follows:

Revenues:	\$3,954,921
Expenses:	<u>3,338,138</u>
Net Income:	\$ 616,783

Capability and Feasibility

The purchase price of \$1,000,000 will be provided through equity from the applicant.

Working capital requirements estimated at \$556,356 based on two months' of first year expenses will be provided by equity from the applicant. Presented as BFA Attachment B, is the financial summary of Genesee Region Home Care Association, Inc., which indicates the availability of sufficient funds.

The submitted budget indicates excess revenues of \$616,783 during the first year subsequent to the change in operator. The submitted budget, based on Lifetime Care's experience in the operation of its CHHA and LTHHCP, and on current reimbursement rates, appears reasonable.

As shown on BFA Attachment B, a financial summary of Genesee Region Home Care Association, Inc. indicates that the facility has maintained positive working capital and net asset positions, and generated annual net revenue of \$616,000 and \$3,903,000 for 2008 and 2009, respectively.

Shown in BFA Attachment D is an internal financial summary of Genesee Region Home Care Association, Inc. through December 31, 2010. It indicates that the facility has maintained positive working capital and net asset positions, and generated annual net revenue of \$1,827,000 for 2010.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner; and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Organizational Chart
BFA Attachment B	Financial Summary, Genesee Region Home Care Association, Inc.
BFA Attachment C	Combined Balance Sheet
BFA Attachment D	2010 Internal Financial Summary, Genesee Region Home Care Association, Inc.



Public Health and Health Planning Council

Project # 102408-E

PTS of Westchester, Inc.

County: Westchester (White Plains)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: November 8, 2010

Executive Summary

Description

PTS of Westchester, Inc., an existing Article 36 proprietary corporation, located at 7-11 South Broadway, White Plains, requests approval for 100% change in stock ownership of its certified home health agency (CHHA) and long term home health care program (LTHHCP) to PT Intermediate Holding, Inc., which will become the wholly-owned subsidiary of a passive parent corporation. Personal Touch Holding Corp. PTS of Westchester, Inc. currently operates a CHHA servicing Westchester county and a LTHHCP, PTS of Manhattan LTHHCP, servicing New York County.

CON #102409-E, 100% change in stock ownership in Personal Touch Home Aides of New York, Inc. is being concurrently reviewed.

The current shareholders of PTS of Westchester, Inc. are Dr. Felix Glaubach (50%) and Mr. Robert Marx (50%).

DOH Recommendation Approval.

Need Summary

As this project only involves a CHHA change of ownership, no Need review is required.

Program Summary

PTS of Westchester, Inc. intends to enter into an Employee Stock Ownership Plan (ESOP). In order to implement the proposed ESOP, the various corporations through which Personal Touch operates its multi-state business will have to be consolidated and owned in a two-tiered holding company structure. To accomplish this ownership restructuring, this CON application was submitted.

PT Intermediate Holding, Inc. ("Intermediate Holdco") seeks to (a) become the owner of the existing CHHA (Personal Touch Home Aides of New York, Inc.) and LTHHCP (PTS of Manhattan) and (b) then become the wholly-owned subsidiary of the parent corporation known as "Personal Touch Holding Corp" ("Parent Corp."). Under the proposed ownership restructure, Parent Corp. will be an indirect passive parent of the CHHA and have no direct control over the operation or management of the CHHA.

Financial Summary

There are no project costs associated with this application.

The stock purchase price of \$60,000,000 will be met with a bank term loan of \$30,000,000, a bank revolving loan of \$20,000,000, and a subordinated loan of \$10,000,000, which equates to \$5,000,000 each from Dr. Felix Glaubach and Mr. Robert Marx.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural review is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval conditional upon:

1. Approval conditioned upon no employee, or any other individual, owning/controlling 10% or more of the stock without first obtaining Department of Health and/or Public Health and Health Planning Council approval, as appropriate. [CHA]

Council Action Date

June 16, 2011.

Programmatic Analysis

Background

PTS of Westchester, Inc., a business corporation, was established as the operator of an Article 36 certified home health agency (CHHA) serving Westchester County from an office located at 7-11 South Broadway, Suite 404, White Plains, New York 10601 and long term home health care program DBA PTS of Manhattan LTHHCP, serving New York County from an office located at 2701 Emmons Avenue, Brooklyn, New York 11235.

PTS of Westchester CHHA will continue to provide the services of Home Health Aide, Medical Social Services, Medical Supplies/Equipment/Appliances, Nursing, Occupational Therapy, Physical Therapy and Speech Language Pathology.

Personal Touch is proposing to implement an Employee Stock Ownership Plan ("ESOP") for the benefit of its employees. In order to implement the proposed ESOP, the various corporations through which Personal Touch operates its multi-state business will have to be consolidated and owned in a two-tiered holding company structure. To accomplish this ownership restructuring, this licensed home care service agency application was submitted. PT Intermediate Holding, Inc. ("Intermediate Holdco") seeks to (a) become the owner of the existing LHCSA (Personal Touch Home Care, Inc.) and (b) then become the wholly owned subsidiary of the parent corporation known as "Personal Touch Holding Corp" ("Parent Corp."). Under the proposed ownership restructure, Parent Corp. will be an indirect passive parent of the LHCSA and have no direct control over the operation or management of the LHCSA.

Pursuant to the ESOP, Parent Corp. will set up an Employee Stock Ownership Trust (the "Trust") that will own thirty-one (31%) percent of the stock of the Parent Corp. The Trust will have an independent trustee, GreatBanc Trust Company (the "Trustee") that will vote the Parent Corp. stock owned by the Trust.

Under the proposed ESOP and Trust, employees ("Employees") of the LHCSA, and the NY Corporations and the Other State Corporations as described below (the "Corporations") will enjoy the economic benefits of the stock owned by the Trust, although the Employees will have no voting rights with respect to the stock owned by the Trust, other than the right, under limited circumstances, to direct the voting of the stock by the Trustee of the Trust in the event of a merger, sale, recapitalization, liquidation, dissolution or similar transaction. Each participating Employee will have a separate account in the Trust to hold his or her allocation of stock. The Employees may not sell, transfer, assign, pledge or encumber their stock in the Trust. Dividends will be allocated among, and credited to, the stock account of each Employee on the basis of the number of allocated shares of stock held by each Employee in the Trust. An Employee who leaves the service of a Corporation must transfer his or her shares back to Parent Corp. and will be entitled to a payment equal to the fair-market-value of his or her stock, but not the stock itself.

Step 1: The Share Exchange

Five (5) New York Corporations, consisting of two (2) Certified Home Health Agencies and three (3) Licensed Home Care Services Agencies (together form the "NY Corporations") are seeking approval to participate in the ESOP transaction. The shareholders of the NY Corporations entered into a share exchange agreement to transfer the legal title to their shares in the NY Corporations to Intermediate Holdco, which is a newly formed New York holding corporation. In exchange for such transfer, the NY Corporation Shareholders have received shares in Intermediate Holdco. This share exchange has resulted in each of the NY Corporations becoming a wholly owned subsidiary of Intermediate Holdco. The foregoing transfer is subject to reversal if there is a failure to ultimately obtain DOH approval.

The Out-of-State Corporations

At the same time as the NY Corporations' share exchange takes place, Personal Touch home care and hospice agencies and one Personal Touch management company in other states (collectively, the "Other State Corporations"), that are owned or controlled by the same individuals who are the NY Corporation Shareholders along with two (2) other individuals, Mr. Irving Bauer and Mr. Ernest Rubinstein, have also transferred legal title to their shares in the Other State Corporations to Intermediate Holdco. In return, all of the shareholders of these Other State Corporations

have also received stock in Intermediate Holdco. This exchange of shares was effectuated through the same Share Exchange Agreement used by the NY Corporations.

Step 2: The Merger

Parent Corp has formed a New York corporation (“Merging Co.”) as a wholly owned subsidiary of Parent Corp.

Simultaneously with the signing of, and exchange of shares under, the Share Exchange Agreement, Intermediate Holdco entered into an agreement (“Merger Agreement”) and plan of merger (the “Merger”) with Parent Corp. and Merging Co. pursuant to which (a) Merging Co. will merge with and into Intermediate Holdco so that Intermediate Holdco becomes the surviving entity, (b) the shareholders of Intermediate Holdco will receive newly issued shares of Parent Corp. stock, and (c) Intermediate Holdco will become a wholly owned subsidiary of Parent Corp. This Merger will become effective only upon receipt of DOH Approval.

Step 3: The Transfer of Stock to the ESOT Trust

Parent Corp. is an existing Delaware corporation that was formerly known as, H.C. Management Services, Inc. Upon receipt of the DOH Approval and completion of the Merger, Parent Corp. will become the parent corporation of Intermediate Holdco and thereby indirectly own all of the NY Corporations. The individuals who are currently the NY Corporation Shareholders will become shareholders of Parent Corp. Intermediate Holdco will become the wholly owned subsidiary of Parent Corp and the NY Corporations will become the wholly owned subsidiaries of Intermediate Holdco.

Immediately following the signing of and exchange of shares under, the Share Exchange Agreement and the Merger Agreement, four (4) current shareholders of Parent Corp. will enter into a Stock Purchase Agreement with the Trust pursuant to which these shareholders will sell a portion of their shares in Parent Corp. to the Trust. The Trustee of the Trust will be GreatBanc Trust Company, an independent institutional trustee.

Parent Corp. has authorized 40 million shares of common stock and 10 million shares of preferred stock of which 30 million shares of common stock will have been issued after DOH approval is received. Of the non-issued shares of common stock, 3,600,000 shares will be reserved under a Stock Incentive Plan. This plan is separate from, and in addition to, the Employee Stock Ownership Plan. Under the Stock Incentive Plan, the Parent Corp. may, in the future, choose to issue a small percentage of stock to selected employees, consultants and directors of Parent Corp. No individual will receive more than 2% of Parent Corp’s stock. None of the shares of preferred stock have been issued at this time.

The proposed stockholders of Personal Touch Holding Corp. comprise the following:

ESOT – 9,300,000 shares (31.0%)	Felix Glaubach – 5,505,000 shares (18.4%)
Robert Marx, Esq. – 5,505,000 shares (18.4%)	

No other individuals or entities own more than 10% of the issued stock.

10,000,000 shares of common stock remain unissued although, as noted above, 3,600,000 shares of the non-issued common stock are reserved for possible future issuance under the Stock Incentive Plan.

10,000,000 shares of preferred stock remain unissued.

The proposed board members of Personal Touch Holding Corp. comprise the following individuals:

Robert Marx, Esq. – Director Executive Vice President, Personal Touch Home Care	Felix Glaubach – Director President, Personal Touch Home Care
<u>Affiliations:</u> Personal Touch Home Care (1974-present)	<u>Affiliations:</u> Personal Touch Home Care (1974-present)

David Slifkin, CPA – Director
Chief Operating Officer/Chief Financial Officer,
Personal Touch Home Care

John L Miscione – Director
Managing Director, Duff & Phelps, LLC

The sole Trustee of the Personal Touch ESOT is GreatBanc Trust Company.

The board members of GreatBanc Trust Company comprise the following individuals:

Elijah Vaughn Gordy – Chairman
Chief Executive Officer, GreatBanc Trust
Company

Affiliations: Director/Officer of Trustee of People
Care ESO

Mark A. Elste – Director
Senior Executive Vice President, U.S. Fiduciary
Services, Inc.

Affiliations: Director/Officer of Trustee of People
Care ESOP.

William S. Smith, Jr. – Director
Self-employed

Affiliations: Director/Officer of Trustee of People
Care ESOP

Michael Welgat, Esq. – Vice Chairman
Chief Executive Officer, U.S. Fiduciary Services,
Inc.

Affiliations: Director/Officer of Trustee of People
Care ESOP

Marilyn H. Marchetti – Director
Senior Vice President, GreatBanc Trust
Company

Affiliations: Director/Officer of Trustee of People
Care ESOP

Mr. Stephen Hartman, Senior Vice President of GreatBanc Trust Company will also have direct authority over the Personal Touch ESOT, although he is not a member of the Board of Directors.

Stephen J. Hartman – Chairman
Senior Vice President, ESOP Services, GreatBanc Trust Company

Affiliations: Director/Officer of Trustee of People Care ESOP, 100%
shareholder, People Care Holdings, Inc.

PT Intermediate Holding, Inc. will become a wholly owned subsidiary of Personal Touch Holding Corp. upon DOH approval of this transaction. Personal Touch Holding Corp. proposes to own 1,000 shares of the authorized 10,000 shares of stock of PT Intermediate Holding, Inc. 9,000 shares will remain unissued.

The proposed board members of PT Intermediate Holding, Inc. comprise the following individuals:

Robert Marx, Esq. – Director
Previously Disclosed

Felix Glaubach – Director
Previously Disclosed

Personal Touch Home Care, Inc. is a wholly owned subsidiary of PT Intermediate Holding, Inc. PT Intermediate Holding, Inc. proposes to own 100 shares of the authorized 200 shares of stock of Personal Touch Home Care, Inc. 100 shares will remain unissued.

The proposed board members of PTS of Westchester, Inc., comprise the following individuals:

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

A Certificate of Good Standing has been received for all attorneys.

A 10-year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

Florida

- Personal Touch Home Care of Florida – Fort Lauderdale
- Personal Touch Home Care of Florida – Del Ray Beach

Indiana

- Personal Touch Home Care of Indiana – Lawrenceburg

Massachusetts

- Personal Touch Home Care of Mass – W. Springfield
- Personal Touch Home Care Aides – Brighton
- Personal Touch Home Care Aides – N. Chelmsford
- Personal Touch Home Care of S.E. Mass – N. Dartmouth
- Personal Touch Home Aides – Beverly

Maryland

- Personal Touch Home Aides – Towson

Missouri

- Personal Touch Home Care of MO – Clayton

New Hampshire

- Personal Touch Home Aides of Greater Portsmouth – Auburn

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- Personal Touch Home Care of NJ – Roselle Park
- Personal Touch Home Care of NJ – New Brunswick
- Personal Touch Home Care of NJ – Neptune
- Personal Touch Home Care of NJ – Bloomfield
- Personal Touch Home Care of NJ – Union City

New York

- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hempstead
- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hauppauge
- Personal Touch Home Care of Westchester, Inc – White Plains
- Personal Touch Home Care, Inc. – Jamaica
- Personal Touch Home Aides of New York
- PTS of Brooklyn LTHHCP (08/2007-Present)
- PTS of Westchester, Inc.
- PTS of Manhattan LTHHCP (12/2009-Present)

Ohio

- Personal Touch Home Care of Ohio – Independence
- Personal Touch Home Care of Ohio – Wooster
- Personal Touch Home Care of Ohio – Columbus

- Personal Touch Home Care of Ohio – Cincinnati
- Personal Touch Home Care of Ohio – Hamilton
- Personal Touch Home Care of Ohio – Easton
- Personal Touch Home Care of Ohio – Franklin

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- Personal Touch Home Care of PA – Pittsburg
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- Personal Touch Home Care of PA – Butler

Texas

- Houston Personal Touch Home Aides – San Antonio
- Personal Touch Home Care – Dallas

Virginia

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- Personal Care Aides of VA – Newport News
- Personal Care Aides of VA – Williamsburg
- Personal Care Aides of VA – Cheriton
- Personal Care Aides of VA – Chesapeake

Personal Touch Home Aides of New York was fined fourteen thousand dollars (\$14,000.00) pursuant to a stipulation and order dated May 29, 2007 for inspection findings of May 23, 2006 and July 11, 2006 for violations 10 NYCRR Sections 763.11(a) and (b) relating to the governing authority; 763.4(a) and (h) relating to policies and procedures of service delivery; 763.2(a) relating to patient rights; 763.6(b) relating to patient assessment and plan of care; and 763.5(a) relating to patient referral, acceptance and discharge.

The information provided by the Bureau of Quality Assurance and Licensure 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 out-of-state regulatory agencies in the states of Florida, Indiana, Massachusetts, Maryland, Missouri, New Hampshire, New Jersey, Ohio, Pennsylvania, Texas, and Virginia have indicated that Personal Touch Home Care, Inc. has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

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

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Background

PTS of Westchester, Inc. plans to implement an employee stock option plan (ESOP) as a benefit to the employees. In order to implement the ESOP, PTS of Westchester, Inc. will create a two-tiered holding company structure. PT Intermediate Holding, Inc. (Intermediate Holdco) will be established as 100% shareholder of PTS Westchester, Inc. and the following existing home health agencies in New York:

- Personal Touch Home Aides of New York, Inc. (CHHA)
- Personal Touch Home Care, Inc. (LHCSA)

- Personal Touch Home Care of Long Island, Inc. (LHCSA)
- Personal touch Home Care of Westchester, Inc. (LHCSA)
- PTS of Brooklyn LTHHCP
- PTS of Manhattan LTHHCP

It should be noted that Intermediate Holdco will also be 100% shareholder of the out of state corporations. All current operators will remain the same. The New York corporations will enter into a share exchange agreement to transfer legal title to their shares in the New York corporations to Intermediate Holdco. No cash payment will be made for such transfer of shares. Beneficial ownership will be transferred to Intermediate Holdco upon approval of this application by the Department of Health (DOH). In exchange, all of the shareholders, both those of the New York corporations and the out of state corporations will receive stock in Intermediate Holdco. Presented as BFA Attachment A is the ownership percentages and shares owned before and after each transaction.

Under the proposed transaction and ownership restructure, PTS of Westchester, Inc. will continue to operate its CHHA and LTHHCP at the same address, under the same name, the same Federal Tax Identification Number, with the same officers, directors, administrative staff and personnel, the same Medicaid and Medicare numbers, the same corporate governance, and the same certificate of incorporation and by-laws, and will continue to provide home care services to the residents of Westchester and New York counties. The members of the Board of Directors for PT Intermediate Holding, Inc. are Dr. Felix and Robert Marx.

Then Intermediate Holdco will become the wholly owned subsidiary of a parent corporation known as Personal Touch Holding Corp. (Parent Corp.). Under the proposed ownership restructure, Parent Corp. will be the passive parent of the corporations and have no direct control over the operation or management of the corporations. Parent Corp. will form a New York corporation, PT Merging Corp. as a wholly owned subsidiary of Parent Corp. The establishment of PT Merging Corp. is necessary in this transaction to eliminate potentially adverse tax consequences that could result if it becomes necessary to unwind the transaction because of disapproval by the Department of Health. PT Merging Corp. will enter into a merger agreement with Intermediate Holdco so that the surviving entity will be Intermediate Holdco. This transaction will make Parent Corp. the passive parent over all subsidiaries. This merger will only be effective upon receipt of Department of Health approval.

Finally, Parent Corp. will set up an employee stock ownership trust (ESOT) that will own a percentage of stock of Intermediate Holdco purchased through a stock purchase agreement. The trust will have an independent trustee, GreatBanc Trust Company. Parent Corp. will then transfer its stock to the trustee. The ESOT is being created as a vehicle to hold stock in Parent Corp. as part of the Personal Touch ESOP. Each participating employee will have a separate account in the ESOT to hold his or her allocation of stock. Parent Corp. will furnish each participating employee with annual statements reflecting the current fair market value of the employee's stock under the ESOP. Presented as BFA Attachment B is the organizational structures before and after the transaction.

Parent Corp. is authorized to issue 40,000,000 shares of common stock and 10,000,000 shares of preferred stock. Currently, there are 20,942,408 shares outstanding, issued as of December 13, 2010. A total of 19,057,592 shares remain unissued. Upon receipt of DOH approval, there will be 30,000,000, shares of common stock issued, 10,000,000 shares of common stock unissued and 10,000,000 of preferred stock unissued. The unissued shares of common and preferred stock are being held in a corporate treasury.

Under the proposed ESOP and trust, employees of the corporations will receive economic benefits of the stock owned by the trust but will have no voting rights with respect to the stock owned by the trust, except in the event of a merger, sale, recapitalization, liquidation, dissolution or similar transaction. Each participating employee will have a separate account in the trust to hold his or her allocation of stock. The employees may not sell, transfer, assign, pledge, or encumber their stock in the trust. An employee who leaves the service of the corporation must transfer his or her shares back to Parent Corp. and will be entitled to a payment equal to the fair market value of his or her stock.

Stock Purchase Agreement

The applicant has submitted an executed stock purchase agreement, the terms of which are summarized below:

Date: December 13, 2010
Sellers: Personal Touch Holding Corp., Dr. Felix Glaubach,
Robert Marx, Irving Bauer and Ernest Rubinstein
Buyer: Personal Touch Holding Corp. Employee Stock
Ownership Trust
Shares to be purchased: 9,300,000

The purchase price will be satisfied through the executed Amended and Restated Credit and Security Agreement, the terms of which are as follows:

Bank term loan: \$30,000,000, 5 year term, 10 year amortization. Libor (0.31 as of March 8, 2011) plus 4.5%.
Bank revolving loan: \$20,000,000 to be drawn at close, 5 year term. Libor (0.31 as of March 8, 2011) plus 3.5%.
Subordinated loan: Dr. Glaubach and Mr. Marx will loan \$5,000,000 each, payable in 16 equal quarterly installments at 14% commencing on payment in full of the term loan.

All Personal Touch Corporations are considered co-borrowers on the \$30,000,000 term loan, \$20,000,000 revolving loan and \$10,000,000 subordinate loan. The term and revolving loans were made by Healthcare Finance Group, LLC, J.P. Morgan Chase Bank, N.A., Sterns Bank National Association, and Brown Brothers Harriman & Co. as arranged by Healthcare Finance Group, LLC, who has been the principal lender to the Personal Touch subsidiary companies for many years, through the amended and restated Credit and Security Agreement.

Parent Corp. loaned the ESOT the full \$60,000,000 to purchase the 9,300,000 shares of stock, which is considered an inside loan. Accordingly, the \$60,000,000 loan will be repaid out of the positive cash flow generated by all of the Personal Touch Corporations, at stated terms. The applicant has provided executed notes from each credit facility. Presented as Attachment C, is a list of each note amount and lending facility. Presented as Attachment D, are the net worth statements of Dr. Glaubach and Mr. Marx, which indicates availability of sufficient funds.

Operating Budget

The applicant has indicated there are no incremental operating expenses or revenues associated with this project, since patient care services will not be affected.

Capability and Feasibility

There are no project costs associated with this application.

The stock purchase price is \$60,000,000 and is funded with a \$30,000,000 bank term loan, \$20,000,000 bank revolving loan and a \$10,000,000 subordinated loan at stated terms, for which a commitment has been provided. As shown on BFA Attachment C, lending facilities, shows the terms and interest rates.

Presented as BFA Attachment E, a financial summary of Personal Touch Home Care and Affiliates indicates that the facility has maintained positive working capital, experienced negative stockholders equity and generated net income from operations of \$12,077,000 and \$16,037,000 for the years 2008 and 2009, respectively. The negative stockholders equity was because a significant portion of the distributions to the stockholders were made for tax purposes. As shown on BFA Attachment F, internal financial summary of Personal Touch Home Care and Affiliates as of September 30, 2010, the facility has maintained positive working capital and stockholders equity and generated a net income from operations of \$18,924,000.

Presented as BFA Attachments G and H, unaudited financial summaries of PTS Westchester, Inc. indicates that the facility has maintained positive working capital, stockholders equity and generated net income from operations of \$497,000 and \$610,000 for the years 2009 and 2010, respectively.

Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Ownership percentages and shares
BFA Attachment B	Organizational Charts
BFA Attachment C	List of lending facilities
BFA Attachment D	Net worth statements
BFA Attachment E	Financial Summary, Personal Touch Home Care and Affiliates
BFA Attachment F	Internal Financial Summary as of September 30, 2010, Personal Touch Home Care and Affiliates
BFA Attachment G	Internal Financial Summary as of December 31, 2009, PTS of Westchester, Inc.
BFA Attachment H	Internal Financial Summary as of December 31, 2010, PTS of Westchester, Inc.



Public Health and Health Planning Council

Project # 102409-E

Personal Touch Home Aides of New York, Inc.

County: Kings (Brooklyn)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: November 8, 2010

Executive Summary

Description

Personal Touch Home Aides of New York, Inc., an existing Article 36 proprietary corporation, located at 2701 Emmons Avenue in Brooklyn, currently the operator of a certified home health agency (CHHA) and PTS of Brooklyn long term home health care program (LTHHCP) servicing Kings County, requests approval for 100% change in stock ownership of its CHHA and LTHHCP to PT Intermediate Holding, Inc., which will become the wholly owned subsidiary of a passive parent corporation, Personal Touch Holding Corp.

CON #102408-E, 100% change in stock ownership in PTS Westchester, Inc. is being concurrently reviewed.

The current shareholders of Personal Touch Home Aides of New York, Inc. are Dr. Felix Glaubach (50%) and Mr. Robert Marx (50%).

DOH Recommendation
Approval.

Need Summary

As this project only involves a CHHA change of ownership, no Need review is required.

Program Summary

Personal Touch Home Aides of New York, Inc. intends to enter into an Employee Stock Ownership Plan (ESOP). In order to implement the proposed ESOP, the various corporations through which Personal Touch operates its multi-state business will have to be consolidated and owned in a two-tiered holding company structure. To accomplish this ownership restructuring, this CON application was submitted.

PT Intermediate Holding, Inc. ("Intermediate Holdco") seeks to (a) become the owner of the existing CHHA (Personal Touch Home Aides of New York, Inc.) and (b) then become the wholly owned subsidiary of the parent corporation known as "Personal Touch Holding Corp" ("Parent Corp."). Under the proposed ownership restructure, Parent Corp. will be an indirect passive parent of the CHHA and LTHHCP and have no direct control over the operation or management of the CHHA or LTHHCP.

Financial Summary

There are no project costs associated with this application.

The stock purchase price of \$60,000,000 will be met with a bank term loan of \$30,000,000, a bank revolving loan of \$20,000,000 and a subordinated loan of \$10,000,000, which equates to \$5,000,000 each from Dr. Felix Glaubach and Mr. Robert Marx.

It appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Architectural Summary

This project is for Establishment action only; therefore, no Architectural review is required.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval conditional upon:

1. Approval conditioned upon no employee, or any other individual, owning/controlling 10% or more of the stock without first obtaining Department of Health and/or Public Health and Health Planning Council approval, as appropriate. [CHA]

Council Action Date

June 16, 2011.

Programmatic Analysis

Background

Personal Touch Home Aides of New York, Inc., a business corporation, was established as the operator of an Article 36 certified home health agency (CHHA) serving Kings County from an office located at 2701 Emmons Avenue, Brooklyn, New York 11235 and long term home health care program DBA PTS of Brooklyn LTHHCP, serving Kings County from an office located at 2701 Emmons Avenue, Brooklyn, New York 11235.

The Personal Touch Home Aides of New York CHHA serving Kings County will continue to provide the services of Home Health Aide, Medical Social Services, Medical Supplies/Equipment/Appliances, Nursing, Occupational Therapy, Physical Therapy and Speech Language Pathology

Personal Touch is proposing to implement an Employee Stock Ownership Plan ("ESOP") for the benefit of its employees. In order to implement the proposed ESOP, the various corporations through which Personal Touch operates its multi-state business will have to be consolidated and owned in a two-tiered holding company structure. To accomplish this ownership restructuring, this licensed home care service agency application was submitted. PT Intermediate Holding, Inc. ("Intermediate Holdco") seeks to (a) become the owner of the existing LHCSA (Personal Touch Home Care, Inc.) and (b) then become the wholly owned subsidiary of the parent corporation known as "Personal Touch Holding Corp" ("Parent Corp."). Under the proposed ownership restructure, Parent Corp. will be an indirect passive parent of the LHCSA and have no direct control over the operation or management of the LHCSA.

Pursuant to the ESOP, Parent Corp. will set up an Employee Stock Ownership Trust (the "Trust") that will own thirty-one (31%) percent of the stock of the Parent Corp. The Trust will have an independent trustee, GreatBanc Trust Company (the "Trustee") that will vote the Parent Corp. stock owned by the Trust.

Under the proposed ESOP and Trust, employees ("Employees") of the LHCSA, and the NY Corporations and the Other State Corporations as described below (the "Corporations") will enjoy the economic benefits of the stock owned by the Trust, although the Employees will have no voting rights with respect to the stock owned by the Trust, other than the right, under limited circumstances, to direct the voting of the stock by the Trustee of the Trust in the event of a merger, sale, recapitalization, liquidation, dissolution or similar transaction. Each participating Employee will have a separate account in the Trust to hold his or her allocation of stock. The Employees may not sell, transfer, assign, pledge or encumber their stock in the Trust. Dividends will be allocated among, and credited to, the stock account of each Employee on the basis of the number of allocated shares of stock held by each Employee in the Trust. An Employee who leaves the service of a Corporation must transfer his or her shares back to Parent Corp. and will be entitled to a payment equal to the fair-market-value of his or her stock, but not the stock itself.

Step 1: The Share Exchange

Five (5) New York Corporations, consisting of two (2) Certified Home Health Agencies and three (3) Licensed Home Care Services Agencies (together form the "NY Corporations") are seeking approval to participate in the ESOP transaction. The shareholders of the NY Corporations entered into a share exchange agreement to transfer the legal title to their shares in the NY Corporations to Intermediate Holdco, which is a newly formed New York holding corporation. In exchange for such transfer, the NY Corporation Shareholders have received shares in Intermediate Holdco. This share exchange has resulted in each of the NY Corporations becoming a wholly owned subsidiary of Intermediate Holdco. The foregoing transfer is subject to reversal if there is a failure to ultimately obtain DOH approval.

The Out-of-State Corporations

At the same time as the NY Corporations' share exchange takes place, Personal Touch home care and hospice agencies and one Personal Touch management company in other states (collectively, the "Other State Corporations"), that are owned or controlled by the same individuals who are the NY Corporation Shareholders along with two (2) other individuals, Mr. Irving Bauer and Mr. Ernest Rubinstein, have also transferred legal title to their shares in the Other State Corporations to Intermediate Holdco. In return, all of the shareholders of these Other State Corporations

have also received stock in Intermediate Holdco. This exchange of shares was effectuated through the same Share Exchange Agreement used by the NY Corporations.

Step 2: The Merger

Parent Corp has formed a New York corporation (“Merging Co.”) as a wholly owned subsidiary of Parent Corp.

Simultaneously with the signing of, and exchange of shares under, the Share Exchange Agreement, Intermediate Holdco entered into an agreement (“Merger Agreement”) and plan of merger (the “Merger”) with Parent Corp. and Merging Co. pursuant to which (a) Merging Co. will merge with and into Intermediate Holdco so that Intermediate Holdco becomes the surviving entity, (b) the shareholders of Intermediate Holdco will receive newly issued shares of Parent Corp. stock, and (c) Intermediate Holdco will become a wholly owned subsidiary of Parent Corp. This Merger will become effective only upon receipt of DOH Approval.

Step 3: The Transfer of Stock to the ESOT Trust

Parent Corp. is an existing Delaware corporation that was formerly known as, H.C. Management Services, Inc. Upon receipt of the DOH Approval and completion of the Merger, Parent Corp. will become the parent corporation of Intermediate Holdco and thereby indirectly own all of the NY Corporations. The individuals who are currently the NY Corporation Shareholders will become shareholders of Parent Corp. Intermediate Holdco will become the wholly owned subsidiary of Parent Corp and the NY Corporations will become the wholly owned subsidiaries of Intermediate Holdco.

Immediately following the signing of and exchange of shares under, the Share Exchange Agreement and the Merger Agreement, four (4) current shareholders of Parent Corp. will enter into a Stock Purchase Agreement with the Trust pursuant to which these shareholders will sell a portion of their shares in Parent Corp. to the Trust. The Trustee of the Trust will be GreatBanc Trust Company, an independent institutional trustee.

Parent Corp. has authorized 40 million shares of common stock and 10 million shares of preferred stock of which 30 million shares of common stock will have been issued after DOH approval is received. Of the non-issued shares of common stock, 3,600,000 shares will be reserved under a Stock Incentive Plan. This plan is separate from, and in addition to, the Employee Stock Ownership Plan. Under the Stock Incentive Plan, the Parent Corp. may, in the future, choose to issue a small percentage of stock to selected employees, consultants and directors of Parent Corp. No individual will receive more than 2% of Parent Corp’s stock. None of the shares of preferred stock have been issued at this time.

The proposed stockholders of Personal Touch Holding Corp. comprise the following:

ESOT – 9,300,000 shares (31.0%)	Felix Glaubach – 5,505,000 shares (18.4%)
Robert Marx, Esq. – 5,505,000 shares (18.4%)	

No other individuals or entities own more than 10% of the issued stock.

10,000,000 shares of common stock remain unissued although, as noted above, 3,600,000 shares of the non-issued common stock are reserved for possible future issuance under the Stock Incentive Plan.

10,000,000 shares of preferred stock remain unissued.

The proposed board members of Personal Touch Holding Corp. comprise the following individuals:

Robert Marx, Esq. – Director Executive Vice President, Personal Touch Home Care	Felix Glaubach – Director President, Personal Touch Home Care
<u>Affiliations:</u> Personal Touch Home Care (1974-present)	<u>Affiliations:</u> Personal Touch Home Care (1974-present)

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Chief Operating Officer/Chief Financial Officer,
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William S. Smith, Jr. – Director
Self-employed

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Michael Welgat, Esq. – Vice Chairman
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Marilyn H. Marchetti – Director
Senior Vice President, GreatBanc Trust
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Mr. Stephen Hartman, Senior Vice President of GreatBanc Trust Company will also have direct authority over the Personal Touch ESOT, although he is not a member of the Board of Directors.

Stephen J. Hartman – Chairman
Senior Vice President, ESOP Services, GreatBanc Trust Company

Affiliations: Director/Officer of Trustee of People Care ESOP, 100%
shareholder, People Care Holdings, Inc.

PT Intermediate Holding, Inc. will become a wholly owned subsidiary of Personal Touch Holding Corp. upon DOH approval of this transaction. Personal Touch Holding Corp. proposes to own 1,000 shares of the authorized 10,000 shares of stock of PT Intermediate Holding, Inc. 9,000 shares will remain unissued.

The proposed board members of PT Intermediate Holding, Inc. comprise the following individuals:

Robert Marx, Esq. – Director
Previously Disclosed

Felix Glaubach – Director
Previously Disclosed

Personal Touch Home Care, Inc. is a wholly owned subsidiary of PT Intermediate Holding, Inc. PT Intermediate Holding, Inc. proposes to own 100 shares of the authorized 200 shares of stock of Personal Touch Home Care, Inc. 100 shares will remain unissued.

The proposed board members of Personal Touch Home Care, Inc. comprise the following individuals:

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

A Certificate of Good Standing has been received for all attorneys.

A 10 year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

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- Personal Touch Home Care of Mass – W. Springfield
- Personal Touch Home Care Aides – Brighton
- Personal Touch Home Care Aides – N. Chelmsford
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- Personal Touch Home Aides – Beverly

Maryland

- Personal Touch Home Aides – Towson

Missouri

- Personal Touch Home Care of MO – Clayton

New Hampshire

- Personal Touch Home Aides of Greater Portsmouth – Auburn

New Jersey

- Personal Touch Home Care of NJ – Roselle Park
- Personal Touch Home Care of NJ – New Brunswick
- Personal Touch Home Care of NJ – Neptune
- Personal Touch Home Care of NJ – Bloomfield
- Personal Touch Home Care of NJ – Union City

New York

- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hempstead
- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hauppauge
- Personal Touch Home Care of Westchester, Inc – White Plains
- Personal Touch Home Care, Inc. – Jamaica
- Personal Touch Home Aides of New York
- PTS of Brooklyn LTHHCP (08/2007-Present)
- PTS of Westchester, Inc.
- PTS of Manhattan LTHHCP (12/2009-Present)

Ohio

- Personal Touch Home Care of Ohio – Independence
- Personal Touch Home Care of Ohio – Wooster
- Personal Touch Home Care of Ohio – Columbus

- Personal Touch Home Care of Ohio – Cincinnati
- Personal Touch Home Care of Ohio – Hamilton
- Personal Touch Home Care of Ohio – Easton
- Personal Touch Home Care of Ohio – Franklin

Pennsylvania

- Personal Touch Home Care of PA – Pittsburg
- Personal Touch Home Care of PA – Beaver
- Personal Touch Home Care of PA – New Castle
- Personal Touch Home Care of PA – Butler

Texas

- Houston Personal Touch Home Aides – San Antonio
- Personal Touch Home Care – Dallas

Virginia

- Personal Touch Home Care of VA – Norfolk
- Personal Care Aides of VA – Newport News
- Personal Care Aides of VA – Williamsburg
- Personal Care Aides of VA – Cheriton
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Personal Touch Home Aides of New York was fined fourteen thousand dollars (\$14,000.00) pursuant to a stipulation and order dated May 29, 2007 for inspection findings of May 23, 2006 and July 11, 2006 for violations 10 NYCRR Sections 763.11(a) and (b) relating to the governing authority; 763.4(a) and (h) relating to policies and procedures of service delivery; 763.2(a) relating to patient rights; 763.6(b) relating to patient assessment and plan of care; and 763.5(a) relating to patient referral, acceptance and discharge.

The information provided by the Bureau of Quality Assurance and Licensure 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 out-of-state regulatory agencies in the states of Florida, Indiana, Massachusetts, Maryland, Missouri, New Hampshire, New Jersey, Ohio, Pennsylvania, Texas, and Virginia have indicated that Personal Touch Home Care, Inc. has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

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

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Background

Personal Touch Home Aides of New York, Inc. plans to implement an employee stock option plan (ESOP) as a benefit to the employees. In order to implement the ESOP, Personal Touch Home Aides of New York, Inc. will create a two-tiered holding company structure. PT Intermediate Holding, Inc. (Intermediate Holdco) will be established as 100% shareholder of Personal Touch Home Aides of New York, Inc. and the following existing home health agencies in New York:

- PTS of Westchester, Inc. (CHHA)

- Personal Touch Home Care, Inc. (LHCSA)
- Personal Touch Home Care of Long Island, Inc. (LHCSA)
- Personal Touch Home Care of Westchester, Inc. (LHCSA)
- PTS of Brooklyn LTHHCP
- PTS of Manhattan LTHHCP

It should be noted that Intermediate Holdco will also be 100% shareholder of the out of state corporations. All current operators will remain the same. The New York corporations will enter into a share exchange agreement to transfer legal title to their shares in the New York corporations to Intermediate Holdco. No cash payment will be made for such transfer of shares. Beneficial ownership will be transferred to Intermediate Holdco upon approval of this application by the Department of Health (DOH).

In exchange, all of the shareholders, both those of the New York corporations and the out of state corporations will receive shares in Intermediate Holdco. Presented as BFA Attachment A is the ownership percentages and shares owned before and after each transaction.

Under the proposed transaction and ownership restructure, Personal Touch Home Aides of New York, Inc. will continue to operate its CHHA and LTHHCP at the same address, under the same name, the same Federal Tax Identification Number, with the same officers, directors, administrative staff and personnel, the same Medicaid and Medicare numbers, the same corporate governance, and the same certificate of incorporation and by-laws, and will continue to provide home care services to the residents of Kings County. The members of the Board of Directors for PT Intermediate Holding, Inc. are Dr. Felix Glaubach and Robert Marx.

Then Intermediate Holdco will become the wholly owned subsidiary of a parent corporation known as Personal Touch Holding Corp. (Parent Corp.). Under the proposed ownership restructure, Parent Corp. will be the passive parent of the corporations and have no direct control over the operation or management of the corporations. Parent Corp. formed a New York corporation, PT Merging Corp. as a wholly owned subsidiary of Parent Corp. The establishment of PT Merging Corp. was necessary to eliminate potentially adverse tax consequences that could result if it becomes necessary to unwind the transaction because of disapproval by the Department of Health. PT Merging Corp. will enter into a merger agreement with Intermediate Holdco so that the surviving entity will be Intermediate Holdco. This transaction will make Parent Corp. the passive parent over all subsidiaries. The merger will only be effective upon receipt of Department of Health approval.

Finally, Parent Corp. will set up an employee stock ownership trust (ESOT) that will own a percentage of stock of Intermediate Holdco purchased through a stock purchase agreement. The trust will have an independent trustee, GreatBanc Trust Company. Parent Corp. will then transfer its stock to the trustee. The ESOT is being created as a vehicle to hold stock in Parent Corp. as part of the Personal Touch ESOP. Each participating employee will have a separate account in the ESOT to hold his or her allocation of stock. Parent Corp. will furnish each participating employee with annual statements reflecting the current fair market value of the employee's stock under the ESOP. Presented as BFA Attachment B is the organizational structures before and after the transaction.

Parent Corp. is authorized to issue 40,000,000 shares of common stock and 10,000,000 shares of preferred stock. Currently, there are 20,942,408 shares outstanding, issued as of December 13, 2010. A total of 19,057,592 shares remain unissued. Upon receipt of DOH approval, there will be 30,000,000 shares of common stock issued, 10,000,000 shares of common stock unissued and 10,000,000 shares of preferred stock unissued. The unissued shares of common and preferred stock are being held in a corporate treasury.

Under the proposed ESOP and trust, employees of the corporations will receive economic benefits of the stock owned by the trust but will have no voting rights with respect to the stock owned by the trust, except in the event of a merger, sale, recapitalization, liquidation, dissolution or similar transaction. Each participating employee will have a separate account in the trust to hold his or her allocation of stock. The employees may not sell, transfer, assign, pledge, or encumber their stock in the trust. An employee who leaves the service of the corporation must transfer his or her shares back to Parent Corp. and will be entitled to a payment equal to the fair market value of his or her stock.

Stock Purchase Transaction

The applicant has submitted an executed stock purchase agreement, the terms of which are summarized below:

Date: December 13, 2010
Sellers: Personal Touch Holding Corp., Dr. Felix Glaubach, Robert Marx, Irving Bauer and Ernest Rubinstein
Buyer: Personal Touch Holding Corp. Employee Stock Ownership Trust
Shares to be purchased: 9,300,000

The purchase price will be satisfied through the executed Amended and Restated Credit and Security Agreement, the terms of which are as follows:

Bank term loan: \$30,000,000, 5 year term, 10 year amortization. Three month Libor (0.31 as of March 8, 2011) plus 4.5%.
Bank revolving loan: \$20,000,000 to be drawn at close, 5 year term. Three month Libor (0.31 as of March 8, 2011) plus 3.5%.
Subordinated loan: Dr. Glaubach and Mr. Marx will loan \$5,000,000 each, payable in 16 equal quarterly installments at 14%, commencing on payment in full of the term loan.

All Personal Touch Corporations are considered co-borrowers on the \$30,000,000 term loan, \$20,000,000 revolving loan and \$10,000,000 subordinate loan. The term and revolving loans were made by Healthcare Finance Group, LLC, J.P. Morgan Chase Bank, N.A., Sterns Bank National Association and Brown Brothers Harriman & Co. as arranged by Healthcare Finance Group, LLC, who has been the principal lender to the Personal Touch subsidiary companies for many years, through the amended and restated Credit and Security Agreement.

Parent Corp. loaned the ESOT the full \$60,000,000 to purchase the 9,300,000 shares of stock, which is considered an inside loan. Accordingly, the \$60,000,000 loan will be repaid out of the positive cash flow generated by all of the Personal Touch Corporations, at stated terms.

The applicant has provided executed notes from each credit facility. Presented as BFA Attachment C is a list of each note amount and lending facility. Presented as BFA Attachment D, are the net worth statements of Dr. Glaubach and Mr. Marx, which indicates availability of sufficient funds.

Operating Budget

The applicant has indicated there are no incremental operating expenses or revenues associated with this project since patient care services will not be affected.

Capability and Feasibility

There are no project costs associated with this application.

The stock purchase price is \$60,000,000 and is funded with a \$30,000,000 bank term loan, \$20,000,000 bank revolving loan, and a \$10,000,000 subordinated loan at stated terms, for which a commitment has been provided. As shown on BFA Attachment C, lending facilities, shows the terms and interest rates.

Presented as BFA Attachment E, a financial summary of Personal Touch Home Care and Affiliates indicates that the facility has maintained positive working capital, experienced negative stockholders equity and generated net income from operations of \$12,077,000 and \$16,037,000 for the years 2008 and 2009, respectively. The negative stockholders equity was because a significant portion of the distributions to the stockholders were made for tax purposes. As shown on BFA Attachment F, internal financial summary of Personal Touch Home Care and Affiliates as of September 30, 2010, the facility has maintained positive working capital and stockholders equity and generated a net income from operations of \$18,924,000.

Presented as BFA Attachments G and H, unaudited financial summaries of Personal Touch Home Aides of New York, Inc. indicates that the facility has maintained positive working capital, stockholders equity and generated net income from operations of \$6,830,000 and \$6,659,000 for the years 2009 and 2010, respectively.

Based on the preceding, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and approval is recommended.

Recommendation

From a financial perspective, approval is recommended.

Attachments

BFA Attachment A	Ownership percentages and shares
BFA Attachment B	Organizational Charts
BFA Attachment C	List of lending facilities
BFA Attachment D	Net worth statements
BFA Attachment E	Financial Summary, Personal Touch Home Care and Affiliates
BFA Attachment F	Internal Financial Summary as of September 30, 2010, Personal Touch Home Care and Affiliates
BFA Attachment G	Internal Financial Summary as of December 31, 2009, Personal Touch Home Aides of New York, Inc.
BFA Attachment H	Internal Financial Summary as of December 31, 2010, Personal Touch Home Aides of New York, Inc.

**State of New York
Public Health and Health Planning Council**

June 16, 2011

CERTIFICATES

Certificate of Amendment of the Certificate of Incorporation

Exhibit #20

Applicant

1. UNITE HERE Health Center, Inc.
2. Medina Health Care Foundation, Inc.

Certificate of Dissolution

Exhibit #21

Applicant

1. Wartburg Diagnostic and Treatment Center, Inc.

**State of New York
Public Health and Health Planning Council**

June 16, 2011

CERTIFICATES

Certificate of Amendment of the Certificate of Incorporation

Exhibit #16

Applicant

1. UNITE HERE Health Center, Inc.
2. Medina Health Care Foundation, Inc.

Certificate of Dissolution

Exhibit #17

Applicant

1. Wartburg Diagnostic and Treatment Center, Inc.

New York State Department Of Health

Memorandum

TO: Public Health and Health Planning Council

FROM: James E. Dering, General Counsel

DATE: January 26, 2010

SUBJECT: Proposed Certificate of Amendment:
UNITE HERE Health Center, Inc.

Attached for council approval is a proposed Certificate of Amendment to the Certificate of Incorporation of UNITE HERE Health Center, Inc., which operates a diagnostic and treatment center in Manhattan. Initially, the facility primarily provided services to members of the Union of Needle and Industrial Textile Employees (UNITE) and their families. A few years ago, they expanded their services to members of the Health Employees and Restaurant Employees union (HERE) and their families. To more accurately reflect this expanded patient base, the facility requested, and received approval from, the Public Health Council to change its name to "UNITE HERE Health Center, Inc."

As more fully explained in the attached letter from the facility's attorney, apparently, the unions had a falling out and the facility no longer provides services to any HERE union members or their families. The facility is again seeking PHHPC approval to change its name to "Union Health Center, Inc.," which is what most patients currently call the facility. PHHPC approval for a change in corporate name of a not-for-profit corporation is required under section 804(e) of the Not-for-Profit Corporation Law and Title 10 (Health) of the Official Compilation of the Codes, Rules and Regulations of the State of New York § 600.11(a)(1).

The Certificate of Amendment is in legally acceptable form.

Attachments

SchulteRoth&Zabel LLP

919 Third Avenue
New York, NY 10022
212.756.2000
212.593.5955 fax

www.srz.com

Writer's Direct Number
(212) 756-2050

Writer's E-mail Address
mark.brossman@srz.com

December 6, 2010

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Barbara Asheld
Director, Bureau of House Counsel Division
NYS Department of Health
Corning Tower, Room 2482
Empire State Plaza
Albany, New York 12237

RECEIVED

DEC - 9 2010

DEPARTMENT OF HEALTH
DIVISION OF LEGAL AFFAIRS
BUREAU OF HOUSE COUNSEL

Re: UNITE HERE Health Center, Inc.

Dear Ms. Asheld:

Schulte Roth & Zabel LLP ("SRZ") is legal counsel to the UNITE HERE Health Center, Inc. (the "Corporation"). On behalf of our client, UNITE HERE Health Center, Inc. (formerly known as UNITE Health Center, Inc, which was formerly known as Union Sanatorium Association, Inc.) (the "Corporation"), we hereby request that the Department of Health provide consent for the Corporation to change its corporate name to "Union Health Center, Inc."

By letter dated January 20, 2008, the Public Health Council of the Department of Health consented to the Corporation's request to file a Certificate of Amendment to its Certificate of Incorporation to change the Corporation's name from UNITE Health Center to "UNITE HERE Health Center." The purpose of that requested name change was to reflect a merger that occurred in 2004 between two unions: UNITE (formerly the Union of Needletrades, Industrial and Textile Employees) and HERE (Hotel Employees and Restaurant Employees International Union). The New York State Department of State approved the name change on April 24, 2008.

Since that time, due to internal union conflict, the majority of the regional offices that were formerly from the UNITE faction disaffiliated from UNITE HERE and formed a new union, Workers United. As a result of this split, many of the Corporation's patients are no longer associated with UNITE HERE as participants, beneficiaries, or otherwise. Given the disaffiliation, and to eliminate any confusion regarding the ability of Workers United patients to

Barbara Asheld
December 6, 2010
Page 2

utilize the Corporation, the Corporation desires to change its name to be more generically referred to as Union Health Center, Inc.

Further, Union Health Center, Inc. is a name that many of the Corporation's patients recognize to this day. Previously, patients referred to the Corporation as Union Health Center based on the Corporation's former name, Union Sanatorium Association, Inc. As such, the Corporation is proposing to replace its current name with one that seems to be most recognized by its patients and colleagues.

Enclosed for your review are copies of (i) the proposed Certificate of Amendment of the Certificate of Incorporation (changing the name from UNITE HERE Health Center, Inc. to Union Health Center, Inc.), (ii) the Certificate of Incorporation of the Corporation (iii) the Department of Health Operating Certificate for the Corporation, (iv) a previous Certificate of Amendment of the Certificate of Incorporation where the Corporation changed its name from UNITE Health Center, Inc. to UNITE HERE Health Center, Inc., (v) the Public Health Council's letter approving the name change from UNITE Health Center, Inc. to UNITE HERE Health Center, Inc., and (vi) a receipt evidencing filing of the previous Certificate of Amendment of the Certificate of Incorporation with the New York State Department of State.

Once the corporate name has been changed, the Corporation will discontinue using UNITE HERE Health Center, Inc. as its name.¹

Please communicate with me, or Shannon Cade (212-756-2448), if you have any questions regarding this matter.

Sincerely yours,



Mark E. Brossman

Enclosures

cc: Shannon L. Cade, Esq.
Michele A. Petruzzelli, Esq.
Mr. Jeffrey Rothman
Wanda Marzan

¹ On April 5, 2010, SRZ submitted (i) a letter to the Department of Health requesting approval to file a Certificate of Amendment of Certificate of Assumed Name, and (ii) a letter to Mr. Jeffrey Rothman from the Bureau of Project Management requesting an updated Operating Certificate that reflects the Corporation's current name (UNITE HERE Health Center, Inc.). At this time, the Corporation is withdrawing those requests pending the filing of the proposed Certificate of Amendment to the Certificate of Incorporation. Once the name change is approved, the Corporation will submit to Mr. Rothman a revised proposed Certificate of Amendment of Certificate of Assumed Name (so that the Corporation's new assumed name will be Union Health Center), and it will renew its request to receive an updated Operating Certificate reflecting its new corporate name (Union Health Center, Inc.).

**Certificate of Amendment of the
Certificate of Incorporation
of
UNITE HERE Health Center, Inc.**

UNDER SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW

I, the undersigned, being the President/Secretary of UNITE HERE Health Center, Inc., do hereby certify:

1. The name of the Corporation is UNITE HERE HEALTH CENTER, INC. (formerly known as UNITE HEALTH CENTER, INC., which was formerly known as UNION SANATORIUM ASSOCIATION, INC.) (the "Corporation").

2. The Certificate of Incorporation of the Corporation was filed with the Department of State on the 5th day of March, 1917. The Corporation was formed under the Membership Corporation Law of the State of New York.

3. The Corporation is an entity defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a Type B corporation under Section 201 of said law.

4. The Certificate of Incorporation of the Corporation is hereby amended as follows:

(a): Article ONE which states the name of the Corporation is hereby deleted in its entirety and the following is substituted in lieu thereof:

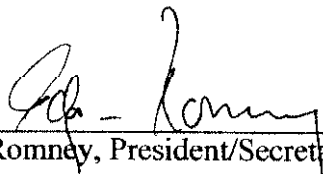
ONE: "The name of the corporation is Union Health Center, Inc."

5. This amendment to the Certificate of Incorporation of the Corporation was authorized by the affirmative vote of a majority of the members entitled to vote thereon at a

meeting of members duly called and held on the 19th day of October, 2010, the affirmative vote being at least equal to the quorum.

6. The Secretary of State of the State of New York (the "Secretary of State") is hereby designated as the agent of the Corporation upon whom process served against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon the Secretary of State as agent of the Corporation is: c/o Mr. Edgar Romney, UNITE HERE Health Center, Inc., 275 Seventh Avenue, New York, New York 10001.

IN WITNESS WHEREOF, the undersigned have signed this Certificate this 3rd
day of December, 2010.



Edgar Romney, President/Secretary

**New York State Department of Health
Division of Legal Affairs
Memorandum**

TO: Public Health and Health Planning Council

FROM: James E. Dering, General Counsel

DATE: April 4, 2011

SUBJECT: Proposed Certificate of Amendment of the Certificate of Incorporation of Medina Health Care Foundation, Inc.

Attached is the proposed Certificate of Amendment of the Certificate of Incorporation of Medina Health Care Foundation, Inc. This not-for-profit corporation seeks approval to change its name to "Orleans Community Health Foundation, Inc." The corporation is currently licensed to operate an Article 28 foundation located in Orleans County. Public Health and Health Planning Council approval for a change of corporate name is required by Not-for-Profit Corporation Law § 804 (a) and 10 NYCRR § 600.11 (a) (1).

Also attached is a letter, dated March 1, 2011, from Lance J. Mark, the attorney for Medina Health Care Foundation, Inc. As explained in that letter, the foundation wishes to change its name to be consistent with the new name of the health care system, Orleans Community Health, for which it raises funds. In 2009 Orleans Community Health changed its name from Medina Memorial Health Care Systems.

The proposed Certificate of Amendment is in legally acceptable form.

Attachments

201113.20093 lat

LAW OFFICES OF
LANCE J. MARK, PLLC
EDWARD J. GRABOWSKI, PLLC

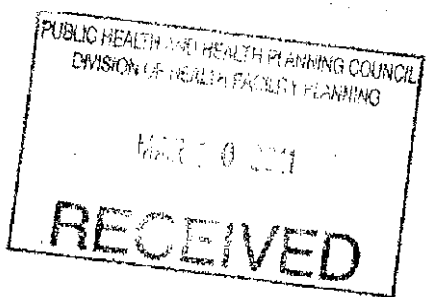
THE CURRY BUILDING
539-6 MAIN STREET, P.O. BOX 426
MEDINA, NEW YORK 14103
www.lancejmark.com

PARALEGALS
TARA R. NEACE
PATRICIA E. MARK

TELEPHONE 585-798-5555
FACSIMILE 585-798-5559
(Not for Service of Process)

March 1, 2011

State of New York
Department of Health
Public Health Council
Corning Tower Building
Albany, NY 12237



RE: Change of Name for the Medina Health Care Foundation, Inc.

Dear Sirs:

Enclosed is a copy of a Certificate of Amendment to the Certificate of Incorporation for this foundation.

This foundation is the fund-raising arm of Orleans Community Health which was formerly Medina Health Care System, Inc. The name of the foundation is being changed to be consistent with the new name of the health care system it supports.

I understand that your approval is needed before the amended certificate can be filed with the Secretary of State.

Thank you for your review and attention to this request.

Very sincerely,

Lance J. Mark
LJM/

enclosure

cc: Medina Health Care Foundation, Inc.

CERTIFICATE OF AMENDMENT OF THE CERTIFICATE OF INCORPORATION
OF MEDINA HEALTH CARE FOUNDATION, INC. UNDER SECTION 803 OF THE
NOT-FOR-PROFIT CORPORATION LAW

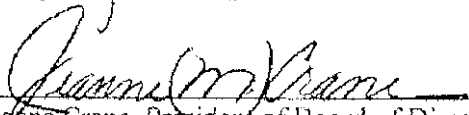
1. The name of the corporation is MEDINA HEALTH CARE FOUNDATION, INC. The name of the corporation as it was originally incorporated was Friends of Medina Memorial Hospital, Inc.
2. The date of the filing of the certificate of incorporation in the Office of the Secretary of State of New York is January 16, 1981.
3. The corporation is a corporation as defined in section 102(a)(5) of the Not-For-Profit Corporation Law; the corporation is a Type B corporation under section 201 of the Not-For-Profit Corporation Law and shall continue to be a Type B Not-For-Profit Corporation, the corporate purposes are not changed hereby.
4. The Certificate of Incorporation is hereby amended to effect the foregoing change to amend paragraph "FIRST" which states the name of the Corporation. Paragraph "FIRST" shall read as follows:

FIRST: The name of the Corporation is Orleans Community Health Foundation, Inc.

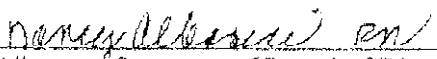
No other change to the certificate of incorporation is being made herein.

5. The undersigned have been authorized to execute and file this certificate by the unanimous vote of the Board of Directors of the corporation present at a Board of Directors Meeting held on February 10, 2011.
6. The Secretary of State is hereby designated as the agent of the corporation upon whom process against it may be served, and the post-office address to which the Secretary of State shall mail a copy of any process against it served upon the Secretary of State is 200 Ohio Street, Medina, New York 14103.

IN WITNESS WHEREOF, the undersigned have made subscribed and acknowledged this Certificate of Amendment this 24th day of February, 2011.



Jeanne Crane, President of Board of Directors



Nancy Albanese, Secretary of Board of Directors

STATE OF NEW YORK}

ss:

COUNTY OF ORLEANS}

Jeanne Crane, being duly sworn, deposes and says:

I am the President of the Board of Directors of MEDINA HEALTH CARE FOUNDATION, INC. I have read the contents of the above certificate of amendment and I do swear that the information contained therein is the truth except as to any matters alleged to be upon information and belief, and as to those matters, I believe them to be true.

Jeanne Crane
Jeanne Crane

Sworn to before me this
24th day of February, 2011.

Candy L. Schoenle
Notary Public

CANDY L. SCHOENLE
Notary Public, State of New York
No. 015005561
Qualified in Orleans County
Commission Expires Dec. 14, 2014

STATE OF NEW YORK}

ss:

COUNTY OF ORLEANS}

Jeanne Crane, being duly sworn, deposes and says:

I am the President of the Board of Directors of Medina Health Care Foundation, Inc.; that a regular meeting of the Board of Directors of the corporation was held on February 10, 2011, that a quorum of the Directors were present in person at said meeting, and that at said meeting, The President and the Secretary of the Corporation, were authorized to execute and file the foregoing certificate by a unanimous vote of all corporate directors present in person.

Jeanne Crane
Jeanne Crane

Sworn to before me on this
24th day of February, 2011.

Candy L. Schoenle
Notary Public

CANDY L. SCHOENLE
Notary Public, State of New York
No. 015005561
Qualified in Orleans County
Commission Expires Dec. 14, 2014

New York State Department of Health

Memorandum

TO: Public Health and Health Planning Council

FROM: James E. Dering, General Counsel

DATE: January 11, 2011

SUBJECT: Certificate of Dissolution
Wartburg Diagnostic and Treatment Center, Inc.

Wartburg Diagnostic and Treatment Center, Inc. (Wartburg Center), after receiving certificate of need approval and the necessary Public Health Council approval letter, filed its Certificate of Incorporation on November 14, 1997. It remained in operation until September 9, 2005, when it filed a request with the New Rochelle Metropolitan Area Regional Office to review its closure plan. The closure plan was ultimately approved by the Department, effective October 28, 2005. Wartburg Center's operating certificate was surrendered to the Department on November 21, 2005. An order of the Supreme Court of the State of New York, County of Westchester, approving the Plan of Dissolution was issued on June 6, 2007, and the Attorney General stated that it had no objection to the Plan on May 4, 2007.

Wartburg Center, however, inadvertently never sought Public Health Council approval for its dissolution and for consent to file a Certificate of Dissolution. Since Wartburg Center is no longer an active facility (having surrendered its operating certificate) and has received all other necessary approvals for its dissolution, it is now respectfully requesting approval from the PHHPC for filing its Certificate of Dissolution.

The following photocopies of documents related to this matter are attached: (1) the fully executed and dated Certificate of Dissolution; (2) the letter from David Wollner, dated October 3, 2005, approving the closure plan on behalf of the Department; and (3) the Order of Supreme Court Approving Plan of Dissolution, filed and entered on June 6, 2007.

The proposed Certificate of Dissolution is in legally acceptable form.

Attachments

CERTIFICATE OF DISSOLUTION
of
WARTBURG DIAGNOSTIC AND TREATMENT CENTER, INC.
Pursuant to §1003 of the Not-for-Profit Corporation Law

I, Laraine Fellagara, Chief Financial Officer of Wartburg Diagnostic and Treatment Center, Inc., hereby certify:

1. The name of this corporation is **WARTBURG DIAGNOSTIC AND TREATMENT CENTER, INC.**

2. The Certificate of Incorporation of **WARTBURG DIAGNOSTIC AND TREATMENT CENTER, INC.** was filed by the Department of State of the State of New York on the 14th day of November, 1997.

3. That the names and addresses of all the directors and officers of said **WARTBURG DIAGNOSTIC AND TREATMENT CENTER, INC.** at the time dissolution was authorized are as follows:

Rev. Mary McNamara, Chair	3041 Broadway New York, NY 10027
Julie Casella, Vice Chair	245 Park Avenue, 16 th Floor New York, NY 10167
Harry Morgan, Vice Chair	9 Horseshoc Road Mt. Kisco, NY 10549
Carolyn Wagner, Vice Chair	308 East 52 nd Street New York, NY 10022
Richard Zubrod, Vice Chair	47 Spielman Avenue Farmingdale, NY 11735
Norma Edelmann	2 Warwick Road Bronxville, NY 10708

Lascelles L. Bond	15 Lytton Avenue Hartsdale, NY 10530
Dr. Wally D. Borgen	P.O. Box 1974 New London, NH 03257
Bruce L. Bozeman	6 Gramatan Avenue Mt. Vernon, NY 10550
Rev. J. Elise Brown	2504 Broadway New York, NY 10025
Dr. Nicholas Cicchetti	654 North Terrace Avenue Mt. Vernon, NY 10552
Dr. Kenneth J. Doka	85 Alda Drive Poughkeepsie, NY 12603
Nedra Gathers	100 E. Mosholu Parkway South, #1G Bronx, NY 10458
Erik Hanson	545 Highbrook Avenue Pelham Manor, NY 10803
Dr. Mary Rosser	32 Studio Lane Bronxville, NY 10708
Frank Tripodi, Pres./CEO	400 Bradley Avenue Mt. Vernon, NY 10552
Carol Trower	41 West 82 nd Street, #4B New York, NY 10024
Dr. Vera Voges	201 East 66 th Street, Apt. 3E New York, NY 10021
Mark A. Warren	173 Somerstown Road Ossining, NY 10562
Karl Westerville	35 Horseshoe Path Pawling, NY 12564

4. Dissolution of the corporation was authorized by unanimous vote of the Board on December 2, 2006, and unanimous vote of its sole member on that same date.

5. The corporation elects to dissolve.

6. At the time of dissolution, the corporation is a Type B corporation.

7. The corporation, pursuant to N-CPL § 1002(d), filed with the Attorney General a certified copy of its Plan of Dissolution on May 4, 2007.

8. Thereafter, the Plan of Dissolution was approved by an Order of the Supreme Court signed by Hon. Gerald E. Loehr, J.S.C., on June 5, 2007 (copy of Order attached as Exhibit "A.")

9. Approval of the dissolution of the corporation is required to be obtained from the New York State Department of Health, and a copy of such approval is attached as Exhibit "B."

10. The Plan of Dissolution filed with the Attorney General included a statement that at the time of dissolution the corporation had assets at a fair market value of \$188,016.86, subject to unpaid liabilities of \$114,179.58, resulting in net assets of approximately \$73,837.28.

11. The corporation has carried out its Plan of Dissolution, paid all of its liabilities and submitted a final report to the Attorney General, attached hereto.

12. The corporation does not hold any assets that are legally required to be used for a particular purpose pursuant to the Not-for-Profit Corporation Law.

13. Prior to the filing of this Certificate with the Department of State, the endorsement of the Attorney General will be attached.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Dissolution of WARTBURG DIAGNOSTIC AND TREATMENT CENTER, INC. this 8th day of December, 2008.

Laraine Fellagara

Laraine Fellagara
Chief Financial Officer

ENDORSEMENT OF THE ATTORNEY GENERAL:

THE ATTORNEY GENERAL HEREBY APPROVES
THE FOREGOING CERTIFICATE OF DISSOLUTION
FOR FILING WITH THE DEPARTMENT OF STATE

Andrew C. McCarty 2-2-09
ASSISTANT ATTORNEY GENERAL DATE

DOH STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Antonia C. Novello, M.D., M.P.H. Dr. P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

October 3, 2005

Jeanine Kurtz
Director of Performance Improvement
and Corporate Compliance
The Wartburg Adult Care Community
Wartburg Place
Mount Vernon, New York 10552

Re: Closure of the Wartburg Diagnostic & Treatment Center

Dear Ms. Kurtz:

In response to your request of September 9, 1995, staff from the Bureau of Hospital and Primary Care Services and the New York Metropolitan Area Regional Office, New Rochelle Area, reviewed the closure plan for the facility listed above.

The closure plan is approved effective October 28, 2005; therefore, the operating certificate should be surrendered to the New York Metropolitan Area Regional Office immediately after that date. If you have any questions concerning this matter please contact Marianne Oros at (914) 654-7011.

Thank you.

Sincerely,



David Wollner
Director
Office of Health Systems Management

cc: Ms. Oros

**FILED
AND
ENTERED**
ON 10-10-2007

At a Term, Part /0] of the
Supreme Court of the State of New York,
held in and for the County of Westchester,
at the Courthouse thereof at
111 Martin Luther King, Jr. Boulevard,
White Plains, New York, on
June 5 2007

RECEIVED

MAY 24 2007

PRESENT: Hon. Gerald E. Loefer, Justice

**HON. GERALD E. LOEHR
COUNTY COURT JUDGE**

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER**

In the Matter of the Application of

**WARTBURG DIAGNOSTIC AND
TREATMENT CENTER, INC.**

**Order of Supreme
Court Approving
Plan of Dissolution**

For an Order Approving Plan of Dissolution
and Distribution of Assets Pursuant to Section
1002 of the Not-for-Profit Corporation Law.

Index No. 9585/07

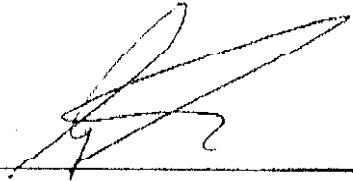
Petitioner, **WARTBURG DIAGNOSTIC AND TREATMENT CENTER, INC.**, having
duly applied for an Order, pursuant to Section 1002 of the Not-for-Profit Corporation Law of
the State of New York, approving the plan for dissolution and distribution of assets of said
petitioner corporation,

Now, on reading the Petition of **WARTBURG DIAGNOSTIC AND TREATMENT
CENTER, INC.**, duly verified on March 22, 2007, and all the exhibits annexed thereto,
including the plan of dissolution and distribution of assets, all submitted in support of the
application, and it appearing that the Attorney General of the State of New York has no

objection to said plan, it is

ORDERED, that the Plan of Dissolution and Distribution of Assets certified by Norma M. Edelmann, the Secretary of Wartburg Diagnostic and Treatment Center, Inc., on the 2nd day of December, 2006, be and the same is hereby approved.

ENTER



A.J.S.C.
Gerald B. Locher

The undersigned has no objection to the granting of Judicial approval hereon and waives statutory notice.

**ATTORNEY GENERAL
STATE OF NEW YORK**

By: _____

THE ATTORNEY GENERAL HEREBY APPEARS HEREIN,
HAS NO OBJECTION TO THE GRANTING OF
JUDICIAL APPROVAL HEREON, ACKNOWLEDGES
RECEIPT OF STATUTORY NOTICE AND DEMANDS
SERVICE OF ALL PAPERS SUBMITTED HEREIN
INCLUDING ALL ORDERS, JUDGMENTS AND
ENDORSEMENTS OF THE COURT. SAID NO OBJECTION
IS CONDITIONED ON SUBMISSION OF THE MATTER
TO THE COURT WITHIN 30 DAYS HEREAFTER.

Victor A. McCarty 5-4-07
ASSISTANT ATTORNEY GENERAL DATE

**State of New York
Public Health and Health Planning Council**

June 16, 2011

Home Health Agency Licensures

Exhibit #18

<u>Number</u>	<u>Applicant/Facility</u>
1807L	Angels on Call Homecare, LLC (Dutchess, Rockland, Westchester, Orange, Sullivan, Bronx, Putman, and Ulster Counties)
1880L	ACS Home Care, LLC (Nassau, Queens, Suffolk, Westchester, Bronx, Kings, and New York Counties)
1866L	Bells Homecare, Inc. (Bronx, Queens, Kings, Richmond, Nassau, and New York Counties)
1955L	Centurion Enterprises, LLC (Westchester County)
1659L	Courtesy Care, LLC (Bronx, Richmond, Kings, Westchester, Queens and New York Counties)
1873L	Good Care Agency, Inc. (Bronx, Queens, Kings, Richmond, Nassau and New York Counties)
1857L	HHDL, Inc. d/b/a Home Helpers #58168 (Saratoga, Albany, Warren, Schenectady and Washington Counties)

- 1893L Aquinas, LLC d/b/a Senior Helpers
(New York, Richmond, Bronx, Westchester,
Kings, and Queens Counties)
- 1890L SIY Home Care, LLC
(Kings, New York and Richmond Counties)
- 1888L Senior Care HHA, Inc.
(Nassau and Suffolk Counties)
- 1902L Silvervine Homecare Services
(Bronx, Queens, Kings, Richmond, Nassau
and New York Counties)
- 1927L Jodi Lee VanNostrand d/b/a Top Quality
Home Care Agency
(Fulton, Schenectady, Hamilton, Schoharie,
Montgomery and Saratoga Counties)
- 1883L Balanced Home Care, LLC d/b/a Balanced
Care Licensed Home Care Agency/Hudson
Valley Assisted Living Program
(Rockland and Orange Counties)
- 1963L Cortland County Health Department
(Cortland County)
- 1970L Dutchess County Department of Health
(Dutchess County)
- 1945L Schoharie County Department of Health
(Schoharie County)
- 1913L A&B Enterprises of Long Island, Inc.
(Nassau and Queens Counties)
- 1912L Allegiant Home Care, LLC
(Bronx, Queens, Kings, Richmond, Nassau
and New York Counties)

- 1842L Allpro Home and Health Care Services
(Bronx, Richmond, Kings, Westchester, New
York and Queens Counties)
- 1683L Coram Healthcare Corporation of Greater
New York
(See exhibit for counties served)
- 1843L Critical Care Nursing Agency, LLC d/b/a
Akshar Nursing Agency
(Nassau, Suffolk and Queens Counties)
- 1381L Cudley's Home Care Services, Inc.
(Bronx, Queens, Kings, Richmond, Nassau
and New York Counties)
- 1840L Heartland Homecare Agency, Inc.
(Bronx, Richmond, Kings, Westchester, New
York and Queens Counties)
- 1782L I & Y Senior Care, Inc.
(Bronx, Richmond, Kings, Nassau, New York
and Queens Counties)
- 1949L Personal Touch Home Care of Long Island,
Inc.
(Nassau, Suffolk and Queens Counties)
- 1950L Personal Touch Home Care of Westchester,
Inc.
(Putnam, Rockland, Westchester and Bronx
Counties)
- 1951L Personal Touch Home Care, Inc.
(Bronx, Richmond, Kings, New York, and
Queens Counties)
- 1914L Premier Home Health Care Services, Inc.
(Nassau, Suffolk and Queens Counties)

- 1915L Priority Home Care, Inc.
(Bronx, Richmond, Kings, New York and
Queens Counties)
- 1985L Sterling Glen Care at Home, LLC d/b/a
Sterling Glen Care at Home
(Nassau, Suffolk, Westchester and Queens
Counties)
- 1960L Living Life Home Care, Inc. d/b/a Comfort
Keepers #512
(Westchester, Dutchess, Bronx and Putnam
Counties)
- 1672L Bryan Skilled Home Care, Inc.
(Nassau, Suffolk and Queens Counties)

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Angels on Call Homecare, LLC
Address: Carmel
County: Putnam
Structure: Limited Liability Company
Application Number: 1807-L

Description of Project:

Angels on Call Homecare, LLC, a limited liability company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

Angels on Call Homecare, LLC is composed of the following member:

Pamela Fitzpatrick, R.N., sole member and manager
CEO, Angels on Call, Inc.
(nursing employment agency)

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 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 97 Gleneida Avenue, Suite C, Carmel, New York 10512:

Dutchess	Orange	Putnam
Rockland	Sullivan	Ulster
Westchester	Bronx	

The applicant proposes to provide the following health care services:

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

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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: ACS Home Care, LLC
Address: Northport
County: Suffolk
Structure: Limited Liability Company
Application Number: 1880-L

Description of Project:

ACS Home Care, LLC, a limited liability company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

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

Mario P. Batinovic, RN – Operating Manager – 25% President, CEO and Owner, Rescue Medical Staffing, Inc.	Robert J. Macedonio, RN – Treasurer – 25% Vice President, CFO and Owner, Rescue Medical Staffing, Inc.
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Alzheimer's Care Specialist, LLC – 50%

The proposed members of Alzheimer's Care Specialist, LLC comprise the following individuals:

Brigid M. Quadrino – Secretary – 33.33% President, Alzheimer's Care Specialist, LLC Member/Claims Management, NY Safety Group, LLC	Ann G. Mageau – Treasurer – 33.33% Administrative Assistant, Hofstra University
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Donna P. Hall – Member – 33.33%
Executive Director, Lincoln Academy

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 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 proposes to serve the residents of the following counties from an office located at 256 Main Street, Suite 1109, Northport, New York 11768:

Nassau	Queens	Suffolk	Westchester
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ACS Home Care, LLC proposes to open a second office, to be located in Queens County, from which they propose to serve the counties listed below. A satisfactory operational survey of the first office will be required before a license can be issued for a second office.

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

Nursing	Home Health Aide	Personal Care	Speech-Language Pathology
Occupational Therapy	Medical Social Services	Physical Therapy	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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Centurion Enterprises, LLC
Address: White Plains
County: Westchester
Structure: Limited Liability Company
Application Number: 1955-L

Description of Project:

Centurion Enterprises, LLC, a New Jersey limited liability company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The proposed members of Centurion Enterprises, LLC comprise the following individuals:

Louis Romano, Jr. – 50%
President, Centurion Enterprises, LLC

Louis Romano, Sr. – 50%
Chief Executive Officer, Informa Energy, LLC

Affiliations:

- President/Principal Centurion Enterprises, LLC (New Jersey)

Affiliations:

- Executive Vice President/Principal, Centurion Enterprises, LLC (New Jersey)

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 Westchester County from an office located in White Plains, New York.

The applicant proposes to provide the following health care services:

Nursing Home Health Aide

A 10 year review of the operations of Centurion Enterprises, LLC, New Jersey, was performed as part of this review.

The information provided by the New Jersey regulatory agency indicated that Centurion Enterprises, LLC has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations

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

Contingency

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

Recommendation: Contingent Approval
Date: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Courtesy Care, LLC
Address: Brooklyn
County: Kings
Structure: Limited Liability Company
Application Number: 1659-L

Description of Project:

Courtesy Care, LLC, a Limited Liability Company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The members of Courtesy Care, LLC comprise the following individuals:

Yechiel Landau, 89% Owner/Manager, YTM Ltd. Consulting Co. Medical Manager, Sunset Medical Rehab. Clinic Management	Yvette Henriquez, R.N., 1% Weekend Supervisor, Catholic Home Care CHHA
Philip Baldeo, M.D., 9% Owner, Dr. Philip R. Baldeo Medical Services, PC	Shimon Biberfeld, 1% Mortgage Broker, Meridian Residential Capital

Yechiel Landau and Yvette Henriquez were approved by the Public Health Council to establish Shining Star Home Care, LLC as a special needs CHHA under CON # 072094. This CHHA is not operational as of this time.

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 the Professions of the State Education Department, the New York Physician Profile and the Office of Professional Medical Conduct, where appropriate, indicates no issues with the licenses of the health professionals associated with this application.

The applicant proposes to serve the residents of the following counties from an office located at 1221 East 8th Street, Brooklyn, New York 11230:

Bronx	Kings	Queens	New York
Richmond	Westchester		

As the agency grows, the applicant proposes to open a second office site located at 104-15 118th Street, Richmond Hills, New York 11419 to serve the residents of the following counties.

Nassau	Suffolk
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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	Respiratory Therapy	Nutrition
Homemaker	Housekeeper	

Review of the Disclosure Information indicates that the applicant has no affiliations with other health care facilities.

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

Contingency

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

Recommendation: Contingent Approval

Date: April 13, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Good Care Agency, Inc.
Address: Staten Island
County: Richmond
Structure: For-Profit Corporation
Application Number: 1873-L

Description of Project:

Good Care Agency, Inc., a for-profit 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:

Alexander Kruity – 50 Shares	Elena Sapon , RN– 50 Shares
Nataliya Striapko, RN – 50 Shares	Igor Striapko – 50 Shares

The proposed board members of Good Care Agency, Inc. comprise the following individuals:

Alexander Kruity, President Chief Executive Officer, Good Care Agency, Inc. Senior Tax Director, AJC Advisors	Elena Sapon, RN, Vice President Administrator, Good Care Agency, Inc. Registered Nurse/Director of Patient Services, I & Y Senior Care
Nataliya Striapko, RN, Secretary Director of Patient Services, Good Care Agency, Inc. Registered Nurse, Richmond University Medical Center Field Nurse, Excellent Home Care	Igor Striapko, Treasurer Chief Financial Officer, Good Care Agency, Inc. Chief Financial Officer, STIN Transportation

The Office of the Professions of the State Education Department and the Office of Professional Medical Conduct indicate 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.

The applicant proposes to serve the residents of the following counties from an office located at 8 Quincy Avenue, Staten Island, New York 10305:

Bronx	Kings	Nassau	New York
Queens	Richmond		

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

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

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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: HHDL, Inc. d/b/a Home Helpers # 58168
Address: Saratoga Springs
County: Saratoga
Structure: For Profit Corporation
Application Number: 1857-L

Description of Project:

HHDL, Inc. d/b/a Home Helpers # 58168, a business corporation, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law. HHDL, Inc. d/b/a Home Helpers # 58168 is an existing companion care agency and a franchise. HHDL, Inc. d/b/a Home Helpers # 58168 entered into a Franchise Agreement with H.H. Franchising Systems, Inc. effective in September 2008.

HHDL, Inc. d/b/a Home Helpers # 58168 has authorized 200 shares of stock which are owned solely by Debra L. Obenhoff.

The Board of Directors of HHDL, Inc. d/b/a Home Helpers # 58168 comprises the following individual:

Debra L. Obenhoff, President, Secretary and Treasurer
President, Home Helpers and Direct Link

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 120 West Avenue, Suite 302, Saratoga Springs, New York 12866:

Saratoga	Warren	Washington
Albany	Schenectady	

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
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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

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

Recommendation: Contingent Approval
Date: April 4, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Aquinas, LLC d/b/a Senior Helpers
Address: New York
County: New York
Structure: Limited Liability Company
Application Number: 1893L

Description of Project:

Aquinas, LLC d/b/a Senior Helpers, a Limited Liability Company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law. Aquinas, LLC d/b/a Senior Helpers is an existing companion care agency which has been accredited by The Joint Commission for home care services. The agency will operate under a franchise agreement with SH Franchising, LLC.

The membership of Aquinas, LLC d/b/a Senior Helpers comprises the following individual:

Glen Galka, 100%
President, Aquinas, LLC d/b/a Senior Helpers
(companion care agency)

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 353 West 48th Street, 4th Floor, New York, New York 10036:

New York	Bronx	Kings	Queens
Richmond	Westchester		

The applicant proposes to provide the following health care services:

Nursing	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

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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: SIY Home Care, LLC
Address: Staten Island
County: Richmond
Structure: Limited Liability Company
Application Number: 1890-L

Description of Project:

SIY Home Care, LLC, a limited liability company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

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

Sandra Etelzon – President and Secretary – 50%
Coordinator, SEL Medical Group

Ilana Etelzon – Vice President and Treasurer– 45%
Medical Student

Irina Kagalovskiy, RN – Member –5%
Nurse, SEL Medical Group
Nurse, Global Care of New York, Inc.

The Office of the Professions of the State Education Department and the Office of Professional Medical Conduct, indicate 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.

The applicant proposes to serve the residents of the following counties from an office located at 28 Van Wyck Avenue, Staten Island, New York 10309:

Kings New York Richmond

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

Nursing Home Health Aide Personal Care

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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: SeniorCare HHA, Inc.
Address: Islip
County: Suffolk
Structure: For-Profit Corporation
Application Number: 1888-L

Description of Project:

SeniorCare HHA, Inc., a for-profit 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:

Bernhard J. Sengstock, President – 200 Shares

The proposed board members of SeniorCare HHA, Inc. comprise the following individual:

Bernhard J. Sengstock, DC – Chairman, Vice Chairman, Secretary and Treasurer
President, Atlas Management of Islip, Inc.
Doctor of Chiropractic/Chief of Staff, Bernhard Sengstock, DC, PC
President, SeniorCare Companions, Inc.

The Office of the Professions of the State Education Department, and the Office of Professional Medical Conduct, indicate 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.

The applicant proposes to serve the residents of the following counties from an office located at 152 Route 111, Suite 25, Islip, New York 11751:

Nassau Suffolk

The applicant proposes to provide the following health care services:

Nursing Home Health Aide Personal Care 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.

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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Jodi Lee VanNostrand d/b/a Top Quality Home Care Agency
Address: Gloversville
County: Fulton
Structure: Sole Proprietor
Application Number: 1927-L

Description of Project:

Jodi Lee VanNostrand d/b/a Top Quality Home Care Agency, a sole proprietorship, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The sole proprietor of Top Quality Home Care Agency is the following individual:

Jodi Lee VanNostrand, HHA – President and Administrator
Home Health Aide, Simply The Best Home Care
Self-Employed, Dust Angels

A search of the individual 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, currently employed 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 123 6th Avenue, Gloversville, New York 12078:

Fulton	Hamilton	Montgomery	Saratoga
Schenectady	Schoharie		

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
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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

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

Recommendation: Contingent Approval
Date: April 21, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Balanced Home Care, LLC
d/b/a Balanced Care Licensed Home Care Agency/
Hudson Valley Assisted Living Program
Address: Pearl River
County: Rockland
Structure: Limited Liability Company
Application Number: 1883L

Description of Project:

Balanced Home Care, LLC, a Limited Liability Company, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law. This agency proposes to operate under two assumed names: Balanced Care Licensed Home Care Agency and Hudson Valley Assisted Living Program.

This application is requesting approval to establish a licensed home care services agency (LHCSA) associated with a new Assisted Living Program (ALP). This LHCSA will be associated with Chestnut Operating Company, LLC d/b/a Hudson Valley Assisted Living Program.

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

Steven M. Laufer, 50%
President, Promenade Senior Living

Benjamin Z. Laufer, 50%
Executive Vice President, Promenade Senior Living

Affiliations:
Manager/Member, Esplanade at Chestnut Ridge
Manager/Member, Promenade at Blue Hill

Affiliations:
Member, Esplanade at Chestnut Ridge
Member, Promenade at Blue Hill

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 582 Veterans Memorial Drive, Pearl River, New York 10965:

Rockland

Orange

The applicant proposes to provide the following health care services:

Nursing
Physical Therapy
Medical Social Services
Nutrition

Home Health Aide
Occupational Therapy
Respiratory Therapy
Homemaker

Personal Care
Speech-Language Pathology
Audiology
Housekeeper

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

Esplanade at Chestnut Ridge (June 2002 to present)
Promenade at Blue Hill (September 2005 to present)

The information provided by the Bureau of Adult Care Facility Quality and Surveillance has indicated that the facilities have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations.

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

Contingency

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

Recommendation: Contingent Approval

Date: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Cortland County Health Department
Address: Cortland
County: Cortland
Structure: Public
Application Number: 1963L

Description of Project:

Cortland County Health Department, requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The county currently operates a certified home health agency which they are planning on selling. Cortland County is requesting approval to open a licensed home care services agency to enable the county to continue to provide essential public health nursing services in the event the CHHA is sold.

The applicant proposes to serve the residents of Cortland County from an office located at: 60 Central Avenue, Cortland, New York 13045.

The applicant proposes to provide the following health care services:

Nursing Medical Social Services Nutrition

The Cortland County Health Department currently operates a Diagnostic and Treatment Center, a Certified Home Health Agency and a Hospice.

The information provided by the Division of Certification and Surveillance has indicated that the Diagnostic and Treatment Center 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 Assurance and Licensure has indicated that the hospice has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent current code violations.

Cortland County Department of Health Certified Home Health Agency was fined ten thousand dollars (\$10,000) pursuant to a stipulation and order dated April 9, 2004 for surveillance findings of March 30, 2001, May 30, 2003 and July 15, 2003 in which five thousand dollars (\$5,000) was paid within 30 days from the effective date of the Stipulation and Order. Payment of the remaining five thousand dollars (\$5,000) was suspended as the Respondent did not violate the terms of the Stipulation and Order, Public Health Law Article 36 and/or the applicable provisions of 10 NYCRR within three (3) years after the effective date of the Stipulation and Order. Deficiencies were found in the following areas: 10 NYCRR 763.11(a) & (b): Governing Authority; 763.6(b), (c) and (e): Patient Assessment and Plan of Care; 763.4(h): Policies and Procedures of Service Delivery.

Cortland County Department of Health Certified Home Health Agency was fined fifteen thousand five hundred dollars (\$15,500) pursuant to a stipulation and order dated May 29, 2007 for surveillance findings of February 9, 2006 in which ten thousand two hundred and fifty dollars (\$10,250) was paid within 30 days from the effective date of the Stipulation and Order. Payment of the remaining five thousand two hundred and fifty dollars (\$5,250) was suspended as the Respondent did not violate the terms of the Stipulation and Order, Public Health Law Article 36 and/or the applicable provisions of 10 NYCRR within three (3) years after the effective date of the Stipulation and Order. Deficiencies were found in the following areas: 10 NYCRR 763.4(a) & (h): Policies and Procedures of Service Delivery; 10 NYCRR 763.6(b): Patient Assessment and Plan of Care; 763.7(a): Clinical Records; and 763.11(a) & (b): Governing Authority.

The information provided by the Bureau of Quality Assurance and Licensure has indicated that there have been repetitive enforcement actions taken against the applicant for violations of the regulations governing Certified Home Health Agencies.

Although there have been repetitive enforcement actions, the Department recommends that Cortland County Health Department be approved to establish a Licensed Home Care Services Agency to allow the county to continue to provide essential public health nursing services to the residents of the county in the event the CHHA is sold. The Department requires that a county be either a LHCSA or a CHHA in order to provide nursing services in resident's homes.

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: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Dutchess County Department of Health
Address: Poughkeepsie
County: Dutchess
Structure: Public
Application Number: 1970-L

Description of Project:

Dutchess County Department of Health requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The county currently operates a certified home health agency which they are planning on selling. Dutchess County Department of Health is requesting approval to open a licensed home care services agency to enable the county to continue to provide essential public health nursing services.

The applicant proposes to serve the residents of Dutchess County from an office located at: 387 Main Street, Poughkeepsie, New York 12601:

The applicant proposes to provide the following health care services:

Nursing Nutrition

Dutchess County Department of Health currently operates a Certified Home Health Agency and a Diagnostic and Treatment Center.

The information provided by the Division of Certification and Surveillance has indicated that the Diagnostic and Treatment Center has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

Dutchess County Department of Health Nursing Division Certified Home Health Agency was fined \$2,500.00 pursuant to a stipulation and order dated September 13, 2010 for surveillance findings of July 2, 2008. Deficiencies were found under 10 NYCRR 763.11 (a) Governing authority, 763.4 (h) Policies and procedures of service delivery and 763.6 (b) Patient assessment and plan of care, (c) Patient assessment and plan of care, and (e) Patient assessment and plan of care.

The information provided by the Bureau of Quality Assurance and Licensure has indicated that Certified Home Health Agency has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

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: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Schoharie County Department of Health
Address: Schoharie
County: Schoharie
Structure: Public
Application Number: 1945-L

Description of Project:

Schoharie County Department of Health requests approval to obtain licensure as a home care services agency under Article 36 of the Public Health Law.

The county currently operates a certified home health agency which they are planning on selling. Schoharie County is requesting approval to open a licensed home care services agency to enable the county to continue to provide nursing home visits.

The applicant proposes to serve the residents of Schoharie County from an office located at: 276 Main Street, P.O. Box 667, Schoharie, New York 12157.

The applicant proposes to provide the following health care services:

Nursing

Schoharie County Department of Health currently operates a Certified Home Health Agency and a Diagnostic and Treatment Center.

The information provided by the Division of Certification and Surveillance has indicated that the Diagnostic and Treatment Center has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Bureau of Quality Assurance and Licensure has indicated that the Certified Home Health Agency has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

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: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: A & B Enterprises of Long Island, Inc.
Address: Hicksville
County: Nassau
Structure: For Profit Corporation
Application Number: 1913-L

Description of Project:

A & B Enterprises of Long Island, Inc., a business corporation, requests approval for a change in ownership of A & B Health Care Services, Inc., a licensed home care services agency under Article 36 of the Public Health Law.

A & B Health Care Services, Inc. was previously approved as a licensed home care services agency by the Public Health Council at its June 27, 1986 meeting and subsequently licensed as 0022L001. At that time, 20 of the 200 authorized shares of stock were issued, 10 shares each to Elaine Schwartz and Theodore Schwartz. In 2005, Elaine Schwartz acquired 10 shares of stock from Theodore Schwartz, making Elaine Schwartz the sole owner of A & B Health Care Services, Inc. This transaction occurred without receiving approval of the Public Health Council.

In the proposed change of ownership transaction A & B Enterprises of Long Island, Inc. will purchase the assets of A & B Health Care Services, Inc. In the interim, A & B Health Care Services, Inc. has entered into a Management Agreement with A & B Enterprises of Long Island, Inc. which was approved by the Department on May 26, 2010.

A & B Enterprises of Long Island has authorized 200 shares of common stock, of which 10 shares have been issued to John Campbell. The remaining shares are unissued.

John Campbell, sole shareholder/sole director
Affiliations: At Home Senior Care, Inc. (6/98 – 12/09)
(non-medical companion care)

After the proposed change of ownership transaction, A & B Enterprises of Long Island, Inc. plans to change the name of the corporation to A & B Health Care Services, Inc. and to operate under the assumed name, At Home Senior Care.

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 99 North Broadway, Hicksville, New York 11801:

Nassau Queens

The applicant proposes to provide the following health care services:

Nursing Home Health Aide Personal Care 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

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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Allegiant Home Care, LLC
Address: Brooklyn
County: Kings
Structure: For-Profit Corporation
Application Number: 1912-L

Description of Project:

Allegiant Home Care, LLC, a Delaware 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.

City-Pro Group, Inc. d/b/a Allegiant Home Care was previously approved as a home care services agency by the Public Health Council at its July 17, 2009 meeting and subsequently licensed as 1793L001. At that time, the applicant authorized 200 shares of stock, which were issued to CC/CPG Holding Corporation.

City-Pro Group, Inc. d/b/a Allegiant Home Care has entered into a management agreement with Allegiant Home Care, LLC which was approved by the Department of Health on November 1, 2010.

The purpose of this application is to change the ownership of City-Pro Group, Inc. d/b/a Allegiant Home Care to Allegiant Home Care, LLC.

The sole member of Allegiant Home Care, LLC is Allegiant Holdings, LLC.

The members of Allegiant Holdings, LLC comprises the following individuals:

Gordon Zachary Gund, Manager – 21.25%
Partner, Coppermine Capital, LLC

Grant A. Gund, Manager – 21.25%
Managing Partner, Coppermine Capital, LLC

Affiliations:

- Director, City-Pro Group, Inc.

Affiliations:

- Director, City-Pro Group, Inc.

David G. Jones, Manager – 15%
Managing Director, Coppermine Capital, LLC

The Gordon Gund-Grant Gund Generation Skipping Trust
– 21.25%

Affiliations:

- Director, City-Pro Group, Inc.

The Gordon Gund-G. Zachary Gund
Generation Skipping Trust – 21.25%

The Trustees of The Gordon Gund-Grant Gund Generation Skipping Trust comprises the following individuals:

Rebecca H. Dent, Esq., Trustee
Partner/Director, Spieth, Bell, McCurdy and
Newell Co. LPA

Grant A. Gund – Trustee
Previously Disclosed

George Gund, III, Trustee
Retired

Richard T. Watson, Esq., Trustee
Counselor, Spieth, Bell, McCurdy and Newell Co. LPA

Affiliations:

- Partner, Park View Villas (Assisted Living)

The Trustees of The Gordon Gund – G. Zachary Gund Generation Skipping Trust comprises the following individuals:

Gordon Z. Gund
Previously Disclosed

Rebecca H. Dent
Previously Disclosed

George Gund, III
Previously Disclosed

Richard T. Watson
Previously Disclosed

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

A Certificate of Good Standing has been received for all attorneys.

The applicant will continue to serve the residents of the following counties from an office located at, 236 Neptune Avenue, Brooklyn, New York 11235:

Bronx
Queens

Kings
Richmond

Nassau

New York

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

Nursing
Occupational Therapy

Home Health Aide
Medical Social Services

Personal Care
Physical Therapy

Speech-Language Pathology
Nutrition

A five (5) year review of the operations of the Park View Associates DBA Park View Villas was performed as part of this review. Information provided by the State of Washington indicates that Park View Associates DBA Park View Villas has exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients.

The information provided by the Bureau of Quality Assurance and Licensure has indicated that the Certified Home Health Agency operated by City-Pro Group, Inc. has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

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

Contingency

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

Recommendation: Contingent Approval
Date: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Allpro Home and Health Care Services
Address: Brooklyn
County: Kings
Structure: For-Profit
Application Number: 1842L

Description of Project:

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

Allpro Home and Health Care Services, Inc., was previously approved as a home care services agency by the Public Health Council at its July 21, 2005 meeting and subsequently licensed as 9655L001. At that time, the agency was equally owned by Christencher Semple – 100 shares of stock and Patricia James – 100 shares of stock.

The purpose of this application is acknowledgment of the purchase of Patricia James shares of stock in Allpro Home and Health Care Services, Inc. by Christencher Semple that occurred in 2009 and the assignment of 30% of the shares of stock to Aubrey Semple.

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

Christencher Semple – 140 Shares	Aubrey A. Semple, Jr. – 60 Shares Vice President of Operations, AllPro Home and Health Care Services
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The Board of Directors of Allpro Home and Health Care Services, Inc. comprise the following individual:

Christencher Semple – President/Administrator

Christencher Semple is exempt from character and competence review due to the fact that she is an existing stock owner.

A search for Aubrey Semple revealed no matches on either the Medicaid Disqualified Provider List or the OIG Exclusion List.

The applicant will continue to serve the residents of the following counties from an office located at 120-08 Liberty Avenue, Richmond Hill, New York 11419:

Bronx	Kings	New York	Queens
Richmond	Westchester		

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

Nursing	Home Health Aide	Personal Care
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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

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: May 20, 2011

Division of Home & Community Based Care
Character and Competence Staff Review

Name of Agency: Coram Healthcare Corporation of Greater New York
Address: Plainview
County: Nassau
Structure: For-Profit
Application Number: 1683L

Description of Project:

Coram Healthcare Corporation of Greater New York, a business corporation, requests approval for a change in ownership of its licensed home care services agency under Article 36 of the Public Health Law. In addition, both Apria Healthcare of New York State, Inc DBA Apria Healthcare and Coram Healthcare Corporation of New York are also requesting approval.

Coram Healthcare Corporation of Greater New York was previously approved as a home care services agency by the Public Health Council at its September 27, 1991 meeting and subsequently licensed as 9073L001 and 9073L002.

Apria Healthcare of New York State, Inc DBA Apria Healthcare was previously approved as a home care services agency by the Public Health Council at its June 21, 1996 meeting and subsequently licensed as 9836L002. As part of this application, the applicant requests approval of a corporate reorganization and the contribution of its license to its affiliate, Coram Healthcare Corporation of Greater New York.

Coram Healthcare Corporation of New York was previously approved as a home care services agency by the Public Health Council at its March 24, 1995 meeting and subsequently licensed as 9694L001, 9694L002 and 9694L003. As part of this application, the applicant requests approval of a merger of Coram Healthcare Corporation of New York with and into Coram Healthcare Corporation of Greater New York.

Pursuant to a merger which was consummated on December 3, 2007 (the "Apria Merger") APCO, Inc., a wholly owned subsidiary of Apria Healthcare, Inc., merged with and into the former ultimate corporate parent of Coram Healthcare Corporation of New York and Coram Healthcare Corporation of Greater New York, Coram, Inc., and Coram, Inc. became a wholly-owned subsidiary of Apria Healthcare, Inc. (AHI). AHI is, in turn, a wholly-owned subsidiary of Apria Healthcare Group Inc., which was a publicly-traded Delaware Corporation until its acquisition by privately-held entities as result of the "Blackstone Merger" (described below). APCO, Inc. was created solely for the purpose of acting as a merger vehicle for the Apria Merger, and ceased to exist following the Apria Merger.

Prior to the Apria Merger, Coram, Inc. ("Coram") was a privately-held company, and the owners of Coram were Goldman Sachs Credit Partners, LP, Wells Fargo Foothill, Inc. and Cerberus Partners, LP (the "Former Coram Owners"). The Former Coram Owners owned all issued and outstanding shares of Coram prior to the Apria Merger. Pursuant to the Apria Merger, each of the Former Coram Owners received distributions of cash in exchange for cancellation of their respective shares in Coram. Following the Apria Merger, AHI owned all issued and outstanding shares of Coram.

Prior to the Apria Merger, Coram Healthcare Corporation of Greater New York was a wholly-owned subsidiary of T² Medical, Inc., a Delaware Corporation, and Coram Healthcare Corporation of New York was a wholly-owned subsidiary of Coram Specialty Infusion Services, Inc. The ownership and corporate structure of the subsidiaries of Coram, Inc., including Coram Healthcare Corporation of Greater New York and Coram Healthcare Corporation of New York did

not change under the Apria Merger. As a result Coram Healthcare Corporation of Greater New York remained a wholly-owned subsidiary of T² Medical, Inc. following the Apria Merger and Coram Healthcare Corporation of New York remained a wholly-owned subsidiary of Coram Specialty Infusion Services, Inc.

Pursuant to a merger which was consummated on October 28, 2008 (the "Blackstone Merger"), Sky Merger Sub Corporation, a Delaware Corporation, a wholly-owned subsidiary of Sky Acquisition₇ LLC, merged with and into Applicant's then-ultimate corporate parent Apria Healthcare Group₇ Inc. with Apria Healthcare Group₇ Inc. surviving, and Apria Healthcare Group₇ Inc. became a wholly owned subsidiary of Sky Acquisition₇ LLC. Sky Merger Sub Corporation was created solely for the purpose of acting as a merger vehicle and ceased to exist following the Blackstone Merger.

Pursuant to the Blackstone Merger, the public shareholders of Apria Healthcare Group₇ Inc. received cash from Sky Acquisition LLC in exchange for their respective shares in Apria Healthcare Group Inc., and Sky Acquisition LLC became the sole owner of all of the issued and outstanding shares of Apria Healthcare Group Inc.

Sky Acquisition LLC is a wholly-owned subsidiary of Apria Finance Holdings Inc. a, a Delaware corporation,. Apria Finance Holdings Inc. owns 100% of the membership interest in Sky Acquisition LLC.

Apria Finance Holdings Inc. is a wholly owned subsidiary of Apria Holdings LLC. a Delaware Limited Liability Company. Apria Holdings LLC owns 100% of the stock in Apria Finance Holdings Inc.

Apria Holdings LLC is a subsidiary of BP Healthcare Holdings LLC a Delaware Limited Liability Company. BP Healthcare Holdings LLC owns approximately 99.62% of the Class A membership interests in Apria Holdings LLC. The principal owners of BP Healthcare Holdings LLC are: Blackstone Capital Partners V L.P.; Blackstone Capital Partners V-AC L.P.; BCP V-S L.P.; and BCP V Co-Investors, L.P. (collectively, the "Blackstone Entities").

The Blackstone Entities are investment funds structured as limited partnerships and are managed by their common general partner, Blackstone Management Associates V L.L.C, a wholly owned subsidiary of BMA V L.L.C. The limited partners of the Blackstone Entities do not have the power or authority to exercise "control" over the Applicant within the means of 10 NYCRR 765.1(c).

Coram Healthcare Corporation of Greater New York has authorized 500 shares of stock, which are owned as follows:

T² Medical, Inc. – 500 shares

The Board of Directors of Coram Healthcare Corporation of Greater New York is comprised of the following individual:

Robert Allen – Director, Chairman, President, Chief Financial Officer, Treasurer

- Director, Chairman, President, Chief Financial Officer, Treasurer, Coram Healthcare Corporation of New York
- Director, Chairman, President, Chief Financial Officer, Treasurer, T² Medical, Inc.
- Director, Chairman, President, Chief Financial Officer, Treasurer, Coram Specialty Infusion Services, Inc.

T² Medical, Inc. has authorized 1000 shares of stock in which 100 shares have been issued. Coram, Inc., a Delaware Corporation owns 100% of the issued stock and outstanding shares of T² Medical, Inc. 900 shares remain unissued.

The Board of Directors of T² Medical, Inc. is comprised of the following individual:

Robert Allen – Previously Disclosed

Coram, Inc. has authorized 1000 shares of stock in which 1000 shares have been issued. Apria Healthcare, Inc., a Delaware Corporation owns 100% of the issued stock and outstanding shares of Coram, Inc.

The Board of Directors of Coram, Inc. is comprised of the following individual:

Norman C. Payson – Director, Chairman

- Director, Chairman, Chief Executive Officer, Coram, Inc.
- Director, Chief Executive Officer, Sky Acquisition LLC
- Director, Apria Finance Holdings Inc
- Director, Apria Holdings LLC
- Director, BP Healthcare Holdings LLC
- Director, Chief Executive Officer, Apria Healthcare of New York State, Inc.
- Director, Chief Executive Officer, Apria Healthcare, Inc.

Apria Healthcare, Inc. has authorized 1000 shares of stock in which 1000 shares have been issued. Apria Healthcare Group Inc., a Delaware Corporation, owns 100% of the issued stock and outstanding shares of Apria Healthcare, Inc.

The Board of Directors of Apria Healthcare, Inc. is comprised of the following individual:

Norman C. Payson – Previously Disclosed

Apria Healthcare Group Inc. has authorized 1000 shares of stock in which 100 shares have been issued. Sky Acquisition LLC, a Delaware Limited Liability Company owns 100% of the issued stock following the Blackstone Merger. 900 shares remain unissued. Prior to the Blackstone Merger, Apria Healthcare Group Inc. was a publicly-traded corporation whose shares were traded on the New York Stock Exchange.

The Board of Directors of Apria Healthcare Group Inc. is comprised of the following individuals:

Michael Dal Bello – Director
Principal, Blackstone Group

- Director, Sky Acquisition, LLC
- Director, Apria Finance Holdings-Inc
- Director, Apria Holdings LLC
- Director, Chief Financial Officer, BP Healthcare Holdings LLC

Norman C. Payson – Director
Previously Disclosed

Neil Simpkins – Director
Senior Managing Director, Blackstone Group

- Director, Sky Acquisition LLC
- Director, Apria Finance Holdings Inc
- Director, Apria Holdings LLC

Patrick Bourke – Director
• Director, Blackstone Group

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

The applicant will continue to serve the residents of the following counties from an office located at 45 South Service Road, Plainview, New York 11803:

Nassau	Orange	Putnam	Rockland
Richmond	Westchester	Queens	

The applicant will continue to serve the residents of the following counties from an office located at 99-77 Queens Blvd, Suite 1100, Rego Park, New York 11374:

Bronx	Kings	New York	Queens
Richmond	Westchester		

The applicant will serve the residents of the following counties from an office located at 1031 Main Street, Buffalo, New York 14203:

Albany	Clinton	Columbia	Delaware
Dutchess	Essex	Franklin	Fulton
Greene	Hamilton	Herkimer	Montgomery
Otsego	Rensselaer	Saratoga	Schenectady
Schoharie	Warren	Washington	

The applicant will serve the residents of the following counties from an office located at 375 N. French Road, Suite 108, Amherst, New York 14228:

Allegany	Cattaraugus	Chautauqua	Erie
Genesee	Niagara	Orleans	Steuben
Wyoming			

The applicant will serve the residents of the following counties from an office located at 2949 Erie Blvd. East, Suite 103, Syracuse, New York 13224:

Broome	Cayuga	Chemung	Chenango
Herkimer	Jefferson	Lewis	Madison
Oneida	Onondaga	Oswego	St. Lawrence
Tioga	Tompkins		

The applicant will serve the residents of the following counties from an office located at 625 Sawkill Road, Kingston, New York 12401:

Dutchess	Orange	Putnam	Sullivan
Ulster	Westchester		

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

Nursing

Review of the Disclosure Information indicates that the applicant is affiliated with other health care facilities.

The applicant has indicated that their affiliated companies; Coram Alternative Site Services, Inc., Coram Healthcare Corporation and Apria HealthCare, Inc. operate health care facilities in the following states: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii,

Iowa, Idaho, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Maryland, Missouri, Minnesota, Mississippi, Michigan, North Carolina, Nebraska, New Jersey, New Mexico, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington and Wisconsin. The information provided by the out-of-state regulatory agencies in above states has determined that the facilities have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations. When code violations have occurred, it was determined that the operators investigated the circumstances surrounding the violation and took steps appropriate to the gravity of the violation which a reasonably prudent operator would take to promptly correct and prevent the recurrence of the violations.

Coram Alternate Site Services, Inc., Houston, TX entered in to a Consent Agreement with the Louisiana Board of Pharmacy. They were fined five thousand three hundred and ten dollars (\$5,310.00) for violating certain non-resident pharmacy provisions of the Board.

Coram Alternate Site Services, Inc., San Antonio, TX was fined one thousand five hundred dollars (\$1,500.00) resulting from state licensing violations identified by Texas Department of Aging and Disability Services during an annual site survey conducted on July 24, 2007.

Information provided by the Bureau of Surveillance and Quality Assurance it has been determined that the agency has provided sufficient supervision to prevent harm to the health, safety and welfare of patients.

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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Critical Care Nursing Agency, LLC DBA Akshar Nursing Agency
Address: Lake Success
County: Nassau
Structure: Limited Liability Company
Application Number: 1843-L

Description of Project:

Critical Care Nursing Agency, LLC DBA Akshar Nursing Agency, a limited liability company, requests approval for a change in ownership and change in corporate structure of a licensed home care services agency under Article 36 of the Public Health Law.

Town Total Nutrition, Inc. DBA Critical Care Nursing Staffing Agency was previously approved as a home care services agency by the Public Health Council at its June 25, 1990 meeting and subsequently licensed as 9067L001 and 9067L002. At that time, 200 shares of stock were authorized and issued as follows: John Q. Navarra – 10 shares, the remaining shares were unissued.

The purpose of this application is the purchase of Town Total Nutrition, Inc. DBA Critical Care Nursing Staffing Agency, currently licensed as 9067L001, and to change the corporate structure from a For-Profit Corporation to a Limited Liability Company.

The members of Critical Care Nursing Agency, LLC DBA Akshar Nursing Agency comprise the following individuals:

Anilkumar C. Patel, Chief Executive Officer and
President and Treasurer – 29%
Unemployed

Michael DiTusa, RN, Chief Operating Officer and
Director of Nursing – 20%
Home Infusion Therapy Field Clinician, American
Outcomes Management
Home Infusion Therapy Field Clinician, Vital Care
Infusion

Sarina Patel, Vice President and Secretary – 51%
Volunteer, Old Bridge Physical Therapy
Volunteer, Health Plus Physical Therapy

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.

The applicant will serve the residents of the following counties from an office located at 1111 Marcus Avenue, Suite 100, Lake Success, New York 11042

Nassau Suffolk Queens

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

Nursing

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: May 20, 2011

Division of Home & Community Based Care
Character and Competence Staff Review

Name of Agency: Cudley's Home Care Services, Inc.
Address: New York
County: New York
Structure: For-Profit
Application Number: 1381-L

Description of Project:

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

Cudley's Home Care Services, Inc. was previously approved as a home care services agency by the Public Health Council at its July 24, 1998 meeting and subsequently licensed as 0629L001. At that time, 200 shares of stock were authorized and issued as follows: Linda Lucious - 100 shares and Jairite Anderson – 100 shares.

The purpose of this proposal is to acknowledge the transfer of stock that occurred on July 9, 2003 through an agreement dated March 31, 2001 and August 28, 2001 from Linda Lucious, President, to Jairite Anderson, Vice President.

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

Jairite Anderson, LPN, RN – 200 shares

The Board of Directors of Cudley's Home Care Services, Inc. comprises the following individual:

Jairite Anderson, LPN, RN – President

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

The applicant will continue to serve the residents of the following counties from an office located at 391 East 149th Street, Suite 521, Bronx, New York 10455:

Bronx	Kings	Nassau	New York
Queens	Richmond		

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

Nursing	Home Health Aide	Personal Care	Medical Social Services
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: May 20, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Heartland Homecare Agency, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit
Application Number: 1840-L

Description of Project:

Heartland Homecare Agency, 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.

A Life-Saver Home Care Services, Inc. was previously approved as a home care services agency by the Public Health Council at its October 23, 1987 meeting and subsequently licensed as 0093L001. At that time, the applicant authorized 200 shares of stock, all of which have been issued to Dov Mesch.

A Life-Saver Home Care Services, Inc. entered into a Purchase Agreement with AllHealth Home Care Agency, Inc. for the sale of its licensed home care agency. Natalya Chornaya of AllHealth Home Care Agency, Inc. has assigned their rights to the purchase of this agency to Joseph Freund and Yoel Horowitz of Heartland Homecare Agency, Inc.

A Life-Saver Home Care Services, Inc. has proposed to enter into a management agreement with Heartland Homecare Agency, Inc. which is currently under review by the Department of Health.

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

Joseph Freund – 102 Shares

Yoel Horowitz – 98 Shares

The Board of Directors of Heartland Homecare Agency, Inc. comprises the following individuals:

Joseph Freund – President, Treasurer
President, Imperial Polymers

Yoel C. Horowitz – Co-President, Secretary
Self Employed

Marvin P. Siegel, RN – Director
Administrator, Town Total Health

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 the Professions of the State Education Department, and the Office of Professional Medical Conduct, indicate no issues with the licensure of the health professional associated with this application.

The applicant will serve the residents of the following counties from an office located at 123 Taafee Place, Brooklyn, New York 11205:

Bronx
Richmond

Kings
Westchester

New York

Queens

The applicant will provide the following health care services:

Nursing
Occupational Therapy
Homemaker

Home Health Aide
Medical Social Services
Housekeeper

Personal Care
Physical Therapy

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: May 24, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: I & Y Senior Care, Inc.
Address: Brooklyn
County: Kings
Structure: For-Profit
Application Number: 1782-L

Description of Project:

I & Y Senior Care, Inc., a business corporation, requests approval for a stock transfer and change in ownership of its licensed home care services agency under Article 36 of the Public Health Law.

I & Y Senior Care, Inc. was previously approved as a home care services agency by the Public Health Council at its January 25, 2008 meeting and subsequently licensed as 1552L001. At that time, 200 shares of stock were authorized and issued to Aleksandr Goldshmidt.

The purpose of this application is to transfer 100 shares of stock from Aleksandr Goldshmidt, President to Svetlana Kucher, Vice President.

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

Aleksandr Goldshmidt - 100 shares Staffing Coordinator, Nursing Personnel Homecare	Svetlana Kucher – 100 shares Administrator/Director of Operations, I & Y Senior Care, Inc.
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The Board of Directors of I & Y Senior Care, Inc. comprises the following individuals:

Aleksandr Goldshmidt, President Previously Disclosed	Svetlana Kucher – Vice President Previously Disclosed
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Aleksandr Goldshmidt is exempt from character and competence review as an individual previously approved by the Public Health Council for this operator.

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

The applicant proposes to continue to serve the residents of the following counties from an office located at 1858 83rd Street, Brooklyn, NY 11214:

Bronx Richmond	Kings Nassau	New York	Queens
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The applicant proposes to continue providing the following health care services:

Nursing	Home Health Aide	Personal Care	Medical Social Services
Physical Therapy	Homemaker	Occupational Therapy	Speech-Language Pathology
Housekeeper	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: May 24, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Personal Touch Home Care of Long Island, Inc
Address: West Hempstead
County: Nassau
Structure: For-Profit Corporation
Application Number: 1949-L

Description of Project:

Personal Touch Home Care of Long Island, Inc., a for-profit corporation, requests approval for a proposed corporate restructuring of a home care services agency under Article 36 of the Public Health Law.

Personal Touch Home Care of Long Island, Inc., is a licensed home care services agency, and was previously approved as a home care services agency by the Public Health Council at its November 20, 1987 meeting and subsequently licensed as 0130L001.

Personal Touch is proposing to implement an Employee Stock Ownership Plan ("ESOP") for the benefit of its employees. In order to implement the proposed ESOP, the various corporations through which Personal Touch operates its multi-state business will have to be consolidated and owned in a two-tiered holding company structure. To accomplish this ownership restructuring, this licensed home care service agency application was submitted. PT Intermediate Holding, Inc. ("Intermediate Holdco") seeks to (a) become the owner of the existing LHCSA (Personal Touch Home Care of Long Island, Inc.) and (b) then become the wholly owned subsidiary of the parent corporation known as "Personal Touch Holding Corp" ("Parent Corp."). Under the proposed ownership restructure, Parent Corp. will be an indirect passive parent of the LHCSA and have no direct control over the operation or management of the LHCSA.

Pursuant to the ESOP, Parent Corp. will set up an Employee Stock Ownership Trust (the "Trust") that will own thirty-one (31%) percent of the stock of the Parent Corp. The Trust will have an independent trustee, GreatBanc Trust Company (the "Trustee") that will vote the Parent Corp. stock owned by the Trust.

Under the proposed ESOP and Trust, employees ("Employees") of the LHCSA, and the NY Corporations and the Other State Corporations as described below (the "Corporations") will enjoy the economic benefits of the stock owned by the Trust, although the Employees will have no voting rights with respect to the stock owned by the Trust, other than the right, under limited circumstances, to direct the voting of the stock by the Trustee of the Trust in the event of a merger, sale, recapitalization, liquidation, dissolution or similar transaction. Each participating Employee will have a separate account in the Trust to hold his or her allocation of stock. The Employees may not sell, transfer, assign, pledge or encumber their stock in the Trust. Dividends will be allocated among, and credited to, the stock account of each Employee on the basis of the number of allocated shares of stock held by each Employee in the Trust. An Employee who leaves the service of a Corporation must transfer his or her shares back to Parent Corp. and will be entitled to a payment equal to the fair-market-value of his or her stock, but not the stock itself.

Step 1: The Share Exchange

Five (5) New York Corporations, consisting of two (2) Certified Home Health Agencies and three (3) Licensed Home Care Services Agencies (together form the "NY Corporations") are seeking approval to participate in the ESOP transaction. The shareholders of the NY Corporations entered into a share exchange agreement to transfer the legal title to their shares in the NY Corporations to Intermediate Holdco, which is a newly formed New York holding corporation. In exchange for such transfer, the NY Corporation Shareholders have received shares in Intermediate Holdco. This share exchange has resulted in each of the NY Corporations becoming a wholly owned subsidiary of Intermediate Holdco. The foregoing transfer is subject to reversal if there is a failure to ultimately obtain DOH approval.

The Out-of-State Corporations

At the same time as the NY Corporations' share exchange takes place, Personal Touch home care and hospice agencies and one Personal Touch management company in other states (collectively, the "Other State Corporations"), that are owned or controlled by the same individuals who are the NY Corporation Shareholders along with two (2) other individuals, Mr. Irving Bauer and Mr. Ernest Rubinstein, have also transferred legal title to their shares in the Other State Corporations to Intermediate Holdco. In return, all of the shareholders of these Other State Corporations have also received stock in Intermediate Holdco. This exchange of shares was effectuated through the same Share Exchange Agreement used by the NY Corporations.

Step 2: The Merger

Parent Corp has formed a New York corporation ("Merging Co.") as a wholly owned subsidiary of Parent Corp.

Simultaneously with the signing of, and exchange of shares under, the Share Exchange Agreement, Intermediate Holdco entered into an agreement ("Merger Agreement") and plan of merger (the "Merger") with Parent Corp. and Merging Co. pursuant to which (a) Merging Co. will merge with and into Intermediate Holdco so that Intermediate Holdco becomes the surviving entity, (b) the shareholders of Intermediate Holdco will receive newly issued shares of Parent Corp. stock, and (c) Intermediate Holdco will become a wholly owned subsidiary of Parent Corp. This Merger will become effective only upon receipt of DOH Approval.

Step 3: The Transfer of Stock to the ESOT Trust

Parent Corp. is an existing Delaware corporation that was formerly known as, H.C. Management Services, Inc. Upon receipt of the DOH Approval and completion of the Merger, Parent Corp. will become the parent corporation of Intermediate Holdco and thereby indirectly own all of the NY Corporations. The individuals who are currently the NY Corporation Shareholders will become shareholders of Parent Corp. Intermediate Holdco will become the wholly owned subsidiary of Parent Corp and the NY Corporations will become the wholly owned subsidiaries of Intermediate Holdco.

Immediately following the signing of and exchange of shares under, the Share Exchange Agreement and the Merger Agreement, four (4) current shareholders of Parent Corp. will enter into a Stock Purchase Agreement with the Trust pursuant to which these shareholders will sell a portion of their shares in Parent Corp. to the Trust. The Trustee of the Trust will be GreatBanc Trust Company, an independent institutional trustee.

Parent Corp. has authorized 40 million shares of common stock and 10 million shares of preferred stock of which 30 million shares of common stock will have been issued after DOH approval is received. Of the non-issued shares of common stock, 3,600,000 shares will be reserved under a Stock Incentive Plan. This plan is separate from, and in addition to, the Employee Stock Ownership Plan. Under the Stock Incentive Plan, the Parent Corp. may, in the future, choose to issue a small percentage of stock to selected employees, consultants and directors of Parent Corp. No individual will receive more than 2% of Parent Corp's stock. None of the shares of preferred stock have been issued at this time.

The proposed stockholders of Personal Touch Holding Corp. comprise the following:

ESOT – 9,300,000 shares (31%)

Felix Glaubach – 5,505,000 shares (18.4%)

Robert Marx, Esq. – 5,505,000 shares (18.4%)

No other individuals or entities own more than 10% of the issued stock.

10,000,000 shares of common stock remain unissued although, as noted above, 3,600,000 shares of the non-issued common stock are reserved for possible future issuance under the Stock Incentive Plan.

10,000,000 shares of preferred stock remain unissued.

The proposed board members of Personal Touch Holding Corp. comprise the following individuals:

Robert Marx, Esq. – Director
Executive Vice President, Personal Touch Home Care

Affiliations:

- Personal Touch Home Care (1974-present)

David Slifkin, CPA – Director
Chief Operating Officer/Chief Financial Officer,
Personal Touch Home Care

Felix Glaubach – Director
President, Personal Touch Home Care

Affiliations:

- Personal Touch Home Care (1974-present)

John L Miscione – Director
Managing Director, Duff & Phelps, LLC

The sole Trustee of the Personal Touch ESOT is GreatBanc Trust Company.

The board members of GreatBanc Trust Company comprise the following individuals:

Elijah Vaughn Gordy – Chairman
Chief Executive Officer, GreatBanc Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Mark A, Elste – Director
Senior Executive Vice President, U.S. Fiduciary
Services, Inc.

Affiliations:

- Director/Officer of Trustee of People Care ESOP

William S. Smith, Jr. – Director
Self-employed

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Michael Welgat, Esq. – Vice Chairman
Chief Executive Officer, U.S. Fiduciary Services, Inc.

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Marilyn H. Marchetti – Director
Senior Vice President, GreatBanc Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Mr. Stephen Hartman, Senior Vice President of GreatBanc Trust Company will also have direct authority over the Personal Touch ESOT, although he is not a member of the Board of Directors.

Stephen J. Hartman – Chairman
Senior Vice President, ESOP Services, GreatBanc
Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP, 100% shareholder, People Care Holdings, Inc.

PT Intermediate Holding, Inc. will become a wholly owned subsidiary of Personal Touch Holding Corp. upon DOH approval of this transaction. Personal Touch Holding Corp. proposes to own 1,000 shares of the authorized 10,000 shares of stock of PT Intermediate Holding, Inc. 9,000 shares will remain unissued.

The proposed board members of PT Intermediate Holding, Inc. comprise the following individuals:

Robert Marx, Esq. – Director
Previously Disclosed

Felix Glaubach – Director
Previously Disclosed

Personal Touch Home Care of Long Island, Inc. is a wholly owned subsidiary of PT Intermediate Holding, Inc. PT Intermediate Holding, Inc. proposes to own 20 shares of the authorized 200 shares of stock of Personal Touch Home Care, Inc. 180 shares will remain unissued.

The proposed board members of Personal Touch Home Care of Long Island, Inc. comprise the following individuals:

Robert Marx, Esq. – Director
Previously Disclosed

Felix Glaubach – Director
Previously Disclosed

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

A Certificate of Good Standing has been received for all attorneys.

A 10 year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

Florida

- Personal Touch Home Care of Florida – Fort Lauderdale
- Personal Touch Home Care of Florida – Del Ray Beach

Indiana

- Personal Touch Home Care of Indiana – Lawrenceburg

Massachusetts

- Personal Touch Home Care of Mass – W. Springfield
- Personal Touch Home Care Aides – Brighton
- Personal Touch Home Care Aides – N. Chelmsford
- Personal Touch Home Care of S.E. Mass – N. Dartmouth
- Personal Touch Home Aides – Beverly

Maryland

- Personal Touch Home Aides – Towson

Missouri

- Personal Touch Home Care of MO – Clayton

New Hampshire

- Personal Touch Home Aides of Greater Portsmouth – Auburn

New Jersey

- Personal Touch Home Care of NJ – Roselle Park
- Personal Touch Home Care of NJ – New Brunswick
- Personal Touch Home Care of NJ – Neptune
- Personal Touch Home Care of NJ – Bloomfield
- Personal Touch Home Care of NJ – Union City

New York

- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hempstead
- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hauppauge
- Personal Touch Home Care of Westchester, Inc – White Plains
- Personal Touch Home Care, Inc. – Jamaica
- Personal Touch Home Aides of New York
- PTS of Brooklyn LTHHCP (08/2007-Present)
- PTS of Westchester, Inc.
- PTS of Manhattan LTHHCP (12/2009-Present)

Ohio

- Personal Touch Home Care of Ohio – Independence
- Personal Touch Home Care of Ohio – Wooster
- Personal Touch Home Care of Ohio – Columbus
- Personal Touch Home Care of Ohio – Cincinnati
- Personal Touch Home Care of Ohio – Hamilton
- Personal Touch Home Care of Ohio – Easton
- Personal Touch Home Care of Ohio – Franklin

Pennsylvania

- Personal Touch Home Care of PA – Pittsburg
- Personal Touch Home Care of PA – Beaver
- Personal Touch Home Care of PA – New Castle
- Personal Touch Home Care of PA – Butler

Texas

- Houston Personal Touch Home Aides – San Antonio
- Personal Touch Home Care – Dallas

Virginia

- Personal Touch Home Care of VA – Norfolk
- Personal Care Aides of VA – Newport News
- Personal Care Aides of VA – Williamsburg
- Personal Care Aides of VA – Cheriton
- Personal Care Aides of VA – Chesapeake

Personal Touch Home Aides of New York was fined fourteen thousand dollars (\$14,000.00) pursuant to a stipulation and order dated May 29, 2007 for inspection findings of May 23, 2006 and July 11, 2006 for violations 10 NYCRR Sections 763.11(a) and (b) relating to the governing authority; 763.4(a) and (h) relating to policies and procedures of service delivery; 763.2(a) relating to patient rights; 763.6(b) relating to patient assessment and plan of care; and 763.5(a) relating to patient referral, acceptance and discharge.

The information provided by the Bureau of Quality Assurance and Licensure 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 out-of-state regulatory agencies in the states of Florida, Indiana, Massachusetts, Maryland, Missouri, New Hampshire, New Jersey, Ohio, Pennsylvania, Texas, and Virginia have indicated that Personal Touch Home Care, Inc. has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The applicant will continue to serve the residents of the following counties from an office located at 60 Hempstead Avenue, Suite 215, West Hempstead, New York 11552:

Nassau Suffolk Queens

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

Nursing	Home Health Aide	Personal Care	Medical Social Services
Occupational Therapy	Physical Therapy	Homemaker	Speech-Language Pathology
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: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Personal Touch Home Care of Westchester, Inc.
Address: White Plains
County: Westchester
Structure: For-Profit Corporation
Application Number: 1950-L

Description of Project:

Personal Touch Home Care of Westchester, Inc., a for-profit corporation, requests approval for a proposed corporate restructuring of a home care services agency under Article 36 of the Public Health Law.

Personal Touch Home Care of Westchester, Inc., is a licensed home care services agency, and was previously approved as a home care services agency by the Public Health Council at its November 20, 1987 meeting and subsequently licensed as 0292L001.

Personal Touch is proposing to implement an Employee Stock Ownership Plan ("ESOP") for the benefit of its employees. In order to implement the proposed ESOP, the various corporations through which Personal Touch operates its multi-state business will have to be consolidated and owned in a two-tiered holding company structure. To accomplish this ownership restructuring, this licensed home care service agency application was submitted. PT Intermediate Holding, Inc. ("Intermediate Holdco") seeks to (a) become the owner of the existing LHCSA (Personal Touch Home Care of Westchester, Inc.) and (b) then become the wholly owned subsidiary of the parent corporation known as "Personal Touch Holding Corp" ("Parent Corp."). Under the proposed ownership restructure, Parent Corp. will be an indirect passive parent of the LHCSA and have no direct control over the operation or management of the LHCSA.

Pursuant to the ESOP, Parent Corp. will set up an Employee Stock Ownership Trust (the "Trust") that will own thirty-one (31%) percent of the stock of the Parent Corp. The Trust will have an independent trustee, GreatBanc Trust Company (the "Trustee") that will vote the Parent Corp. stock owned by the Trust.

Under the proposed ESOP and Trust, employees ("Employees") of the LHCSA, and the NY Corporations and the Other State Corporations as described below (the "Corporations") will enjoy the economic benefits of the stock owned by the Trust, although the Employees will have no voting rights with respect to the stock owned by the Trust, other than the right, under limited circumstances, to direct the voting of the stock by the Trustee of the Trust in the event of a merger, sale, recapitalization, liquidation, dissolution or similar transaction. Each participating Employee will have a separate account in the Trust to hold his or her allocation of stock. The Employees may not sell, transfer, assign, pledge or encumber their stock in the Trust. Dividends will be allocated among, and credited to, the stock account of each Employee on the basis of the number of allocated shares of stock held by each Employee in the Trust. An Employee who leaves the service of a Corporation must transfer his or her shares back to Parent Corp. and will be entitled to a payment equal to the fair-market-value of his or her stock, but not the stock itself.

Step 1: The Share Exchange

Five (5) New York Corporations, consisting of two (2) Certified Home Health Agencies and three (3) Licensed Home Care Services Agencies (together form the "NY Corporations") are seeking approval to participate in the ESOP transaction. The shareholders of the NY Corporations entered into a share exchange agreement to transfer the legal title to their shares in the NY Corporations to Intermediate Holdco, which is a newly formed New York holding corporation. In exchange for such transfer, the NY Corporation Shareholders have received shares in Intermediate Holdco. This share exchange has resulted in each of the NY Corporations becoming a wholly owned subsidiary of Intermediate Holdco. The foregoing transfer is subject to reversal if there is a failure to ultimately obtain DOH approval.

The Out-of-State Corporations

At the same time as the NY Corporations' share exchange takes place, Personal Touch home care and hospice agencies and one Personal Touch management company in other states (collectively, the "Other State Corporations"), that are owned or controlled by the same individuals who are the NY Corporation Shareholders along with two (2) other individuals, Mr. Irving Bauer and Mr. Ernest Rubinstein, have also transferred legal title to their shares in the Other State Corporations to Intermediate Holdco. In return, all of the shareholders of these Other State Corporations have also received stock in Intermediate Holdco. This exchange of shares was effectuated through the same Share Exchange Agreement used by the NY Corporations.

Step 2: The Merger

Parent Corp has formed a New York corporation ("Merging Co.") as a wholly owned subsidiary of Parent Corp.

Simultaneously with the signing of, and exchange of shares under, the Share Exchange Agreement, Intermediate Holdco entered into an agreement ("Merger Agreement") and plan of merger (the "Merger") with Parent Corp. and Merging Co. pursuant to which (a) Merging Co. will merge with and into Intermediate Holdco so that Intermediate Holdco becomes the surviving entity, (b) the shareholders of Intermediate Holdco will receive newly issued shares of Parent Corp. stock, and (c) Intermediate Holdco will become a wholly owned subsidiary of Parent Corp. This Merger will become effective only upon receipt of DOH Approval.

Step 3: The Transfer of Stock to the ESOT Trust

Parent Corp. is an existing Delaware corporation that was formerly known as, H.C. Management Services, Inc. Upon receipt of the DOH Approval and completion of the Merger, Parent Corp. will become the parent corporation of Intermediate Holdco and thereby indirectly own all of the NY Corporations. The individuals who are currently the NY Corporation Shareholders will become shareholders of Parent Corp. Intermediate Holdco will become the wholly owned subsidiary of Parent Corp and the NY Corporations will become the wholly owned subsidiaries of Intermediate Holdco.

Immediately following the signing of and exchange of shares under, the Share Exchange Agreement and the Merger Agreement, four (4) current shareholders of Parent Corp. will enter into a Stock Purchase Agreement with the Trust pursuant to which these shareholders will sell a portion of their shares in Parent Corp. to the Trust. The Trustee of the Trust will be GreatBanc Trust Company, an independent institutional trustee.

Parent Corp. has authorized 40 million shares of common stock and 10 million shares of preferred stock of which 30 million shares of common stock will have been issued after DOH approval is received. Of the non-issued shares of common stock, 3,600,000 shares will be reserved under a Stock Incentive Plan. This plan is separate from, and in addition to, the Employee Stock Ownership Plan. Under the Stock Incentive Plan, the Parent Corp. may, in the future, choose to issue a small percentage of stock to selected employees, consultants and directors of Parent Corp. No individual will receive more than 2% of Parent Corp's stock. None of the shares of preferred stock have been issued at this time.

The proposed stockholders of Personal Touch Holding Corp. comprise the following:

ESOT – 9,300,000 shares (31%)

Felix Glaubach – 5,505,000 shares (18.4%)

Robert Marx, Esq. – 5,505,000 shares (18.4%)

No other individuals or entities own more than 10% of the issued stock.

10,000,000 shares of common stock remain unissued although, as noted above, 3,600,000 shares of the non-issued common stock are reserved for possible future issuance under the Stock Incentive Plan.

10,000,000 shares of preferred stock remain unissued.

The proposed board members of Personal Touch Holding Corp. comprise the following individuals:

Robert Marx, Esq. – Director
Executive Vice President, Personal Touch Home Care

Affiliations:

- Personal Touch Home Care (1974-present)

David Slifkin, CPA – Director
Chief Operating Officer/Chief Financial Officer,
Personal Touch Home Care

Felix Glaubach – Director
President, Personal Touch Home Care

Affiliations:

- Personal Touch Home Care (1974-present)

John L Miscione – Director
Managing Director, Duff & Phelps, LLC

The sole Trustee of the Personal Touch ESOT is GreatBanc Trust Company.

The board members of GreatBanc Trust Company comprise the following individuals:

Elijah Vaughn Gordy – Chairman
Chief Executive Officer, GreatBanc Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Mark A, Elste – Director
Senior Executive Vice President, U.S. Fiduciary
Services, Inc.

Affiliations:

- Director/Officer of Trustee of People Care ESOP

William S. Smith, Jr. – Director
Self-employed

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Michael Welgat, Esq. – Vice Chairman
Chief Executive Officer, U.S. Fiduciary Services, Inc.

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Marilyn H. Marchetti – Director
Senior Vice President, GreatBanc Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Mr. Stephen Hartman, Senior Vice President of GreatBanc Trust Company will also have direct authority over the Personal Touch ESOT, although he is not a member of the Board of Directors.

Stephen J. Hartman – Chairman
Senior Vice President, ESOP Services, GreatBanc
Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP, 100% shareholder, People Care Holdings, Inc.

PT Intermediate Holding, Inc. will become a wholly owned subsidiary of Personal Touch Holding Corp. upon DOH approval of this transaction. Personal Touch Holding Corp. proposes to own 1,000 shares of the authorized 10,000 shares of stock of PT Intermediate Holding, Inc. 9,000 shares will remain unissued.

The proposed board members of PT Intermediate Holding, Inc. comprise the following individuals:

Robert Marx, Esq. – Director
Previously Disclosed

Felix Glaubach – Director
Previously Disclosed

Personal Touch Home Care of Westchester, Inc. is a wholly owned subsidiary of PT Intermediate Holding, Inc. PT Intermediate Holding, Inc. proposes to own 20 shares of the authorized 200 shares of stock of Personal Touch Home Care, Inc. 180 shares will remain unissued.

The proposed board members of Personal Touch Home Care of Westchester, Inc. comprise the following individuals:

Robert Marx, Esq. – Director
Previously Disclosed

Felix Glaubach – Director
Previously Disclosed

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

A Certificate of Good Standing has been received for all attorneys.

A 10 year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

Florida

- Personal Touch Home Care of Florida – Fort Lauderdale
- Personal Touch Home Care of Florida – Del Ray Beach

Indiana

- Personal Touch Home Care of Indiana – Lawrenceburg

Massachusetts

- Personal Touch Home Care of Mass – W. Springfield
- Personal Touch Home Care Aides – Brighton
- Personal Touch Home Care Aides – N. Chelmsford
- Personal Touch Home Care of S.E. Mass – N. Dartmouth
- Personal Touch Home Aides – Beverly

Maryland

- Personal Touch Home Aides – Towson

Missouri

- Personal Touch Home Care of MO – Clayton

New Hampshire

- Personal Touch Home Aides of Greater Portsmouth – Auburn

New Jersey

- Personal Touch Home Care of NJ – Roselle Park
- Personal Touch Home Care of NJ – New Brunswick
- Personal Touch Home Care of NJ – Neptune
- Personal Touch Home Care of NJ – Bloomfield
- Personal Touch Home Care of NJ – Union City

New York

- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hempstead
- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hauppauge
- Personal Touch Home Care of Westchester, Inc – White Plains
- Personal Touch Home Care, Inc. – Jamaica
- Personal Touch Home Aides of New York
- PTS of Brooklyn LTHHCP (08/2007-Present)
- PTS of Westchester, Inc.
- PTS of Manhattan LTHHCP (12/2009-Present)

Ohio

- Personal Touch Home Care of Ohio – Independence
- Personal Touch Home Care of Ohio – Wooster
- Personal Touch Home Care of Ohio – Columbus
- Personal Touch Home Care of Ohio – Cincinnati
- Personal Touch Home Care of Ohio – Hamilton
- Personal Touch Home Care of Ohio – Easton
- Personal Touch Home Care of Ohio – Franklin

Pennsylvania

- Personal Touch Home Care of PA – Pittsburg
- Personal Touch Home Care of PA – Beaver
- Personal Touch Home Care of PA – New Castle
- Personal Touch Home Care of PA – Butler

Texas

- Houston Personal Touch Home Aides – San Antonio
- Personal Touch Home Care – Dallas

Virginia

- Personal Touch Home Care of VA – Norfolk
- Personal Care Aides of VA – Newport News
- Personal Care Aides of VA – Williamsburg
- Personal Care Aides of VA – Cheriton
- Personal Care Aides of VA – Chesapeake

Personal Touch Home Aides of New York was fined fourteen thousand dollars (\$14,000.00) pursuant to a stipulation and order dated May 29, 2007 for inspection findings of May 23, 2006 and July 11, 2006 for violations 10 NYCRR Sections 763.11(a) and (b) relating to the governing authority; 763.4(a) and (h) relating to policies and procedures of service delivery; 763.2(a) relating to patient rights; 763.6(b) relating to patient assessment and plan of care; and 763.5(a) relating to patient referral, acceptance and discharge.

The information provided by the Bureau of Quality Assurance and Licensure 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 out-of-state regulatory agencies in the states of Florida, Indiana, Massachusetts, Maryland, Missouri, New Hampshire, New Jersey, Ohio, Pennsylvania, Texas, and Virginia have indicated that Personal Touch Home Care, Inc. has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The applicant will continue to serve the residents of the following counties from an office located at 7-11 South Broadway, Suite 300, White Plains, New York 10601.

Putnam Rockland Westchester Bronx

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

Nursing	Home Health Aide	Personal Care	Medical Social Services
Occupational Therapy	Physical Therapy	Homemaker	Speech-Language Pathology
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: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Personal Touch Home Care, Inc.
Address: Jamaica
County: Queens
Structure: For-Profit Corporation
Application Number: 1951-L

Description of Project:

Personal Touch Home Care, Inc., a for-profit corporation, requests approval for a proposed corporate restructuring of a home care services agency under Article 36 of the Public Health Law.

Personal Touch Home Care, Inc., is a licensed home care services agency, and was previously approved as a home care services agency by the Public Health Council at its November 20, 1987 meeting and subsequently licensed as 0021L001.

Personal Touch is proposing to implement an Employee Stock Ownership Plan ("ESOP") for the benefit of its employees. In order to implement the proposed ESOP, the various corporations through which Personal Touch operates its multi-state business will have to be consolidated and owned in a two-tiered holding company structure. To accomplish this ownership restructuring, this licensed home care service agency application was submitted. PT Intermediate Holding, Inc. ("Intermediate Holdco") seeks to (a) become the owner of the existing LHCSA (Personal Touch Home Care, Inc.) and (b) then become the wholly owned subsidiary of the parent corporation known as "Personal Touch Holding Corp" ("Parent Corp."). Under the proposed ownership restructure, Parent Corp. will be an indirect passive parent of the LHCSA and have no direct control over the operation or management of the LHCSA.

Pursuant to the ESOP, Parent Corp. will set up an Employee Stock Ownership Trust (the "Trust") that will own thirty-one (31%) percent of the stock of the Parent Corp. The Trust will have an independent trustee, GreatBanc Trust Company (the "Trustee") that will vote the Parent Corp. stock owned by the Trust.

Under the proposed ESOP and Trust, employees ("Employees") of the LHCSA, and the NY Corporations and the Other State Corporations as described below (the "Corporations") will enjoy the economic benefits of the stock owned by the Trust, although the Employees will have no voting rights with respect to the stock owned by the Trust, other than the right, under limited circumstances, to direct the voting of the stock by the Trustee of the Trust in the event of a merger, sale, recapitalization, liquidation, dissolution or similar transaction. Each participating Employee will have a separate account in the Trust to hold his or her allocation of stock. The Employees may not sell, transfer, assign, pledge or encumber their stock in the Trust. Dividends will be allocated among, and credited to, the stock account of each Employee on the basis of the number of allocated shares of stock held by each Employee in the Trust. An Employee who leaves the service of a Corporation must transfer his or her shares back to Parent Corp. and will be entitled to a payment equal to the fair-market-value of his or her stock, but not the stock itself.

Step 1: The Share Exchange

Five (5) New York Corporations, consisting of two (2) Certified Home Health Agencies and three (3) Licensed Home Care Services Agencies (together form the "NY Corporations") are seeking approval to participate in the ESOP transaction. The shareholders of the NY Corporations entered into a share exchange agreement to transfer the legal title to their shares in the NY Corporations to Intermediate Holdco, which is a newly formed New York holding corporation. In exchange for such transfer, the NY Corporation Shareholders have received shares in Intermediate Holdco. This share exchange has resulted in each of the NY Corporations becoming a wholly owned subsidiary of Intermediate Holdco. The foregoing transfer is subject to reversal if there is a failure to ultimately obtain DOH approval.

The Out-of-State Corporations

At the same time as the NY Corporations' share exchange takes place, Personal Touch home care and hospice agencies and one Personal Touch management company in other states (collectively, the "Other State Corporations"), that are owned or controlled by the same individuals who are the NY Corporation Shareholders along with two (2) other individuals, Mr. Irving Bauer and Mr. Ernest Rubinstein, have also transferred legal title to their shares in the Other State Corporations to Intermediate Holdco. In return, all of the shareholders of these Other State Corporations have also received stock in Intermediate Holdco. This exchange of shares was effectuated through the same Share Exchange Agreement used by the NY Corporations.

Step 2: The Merger

Parent Corp has formed a New York corporation ("Merging Co.") as a wholly owned subsidiary of Parent Corp.

Simultaneously with the signing of, and exchange of shares under, the Share Exchange Agreement, Intermediate Holdco entered into an agreement ("Merger Agreement") and plan of merger (the "Merger") with Parent Corp. and Merging Co. pursuant to which (a) Merging Co. will merge with and into Intermediate Holdco so that Intermediate Holdco becomes the surviving entity, (b) the shareholders of Intermediate Holdco will receive newly issued shares of Parent Corp. stock, and (c) Intermediate Holdco will become a wholly owned subsidiary of Parent Corp. This Merger will become effective only upon receipt of DOH Approval.

Step 3: The Transfer of Stock to the ESOT Trust

Parent Corp. is an existing Delaware corporation that was formerly known as, H.C. Management Services, Inc. Upon receipt of the DOH Approval and completion of the Merger, Parent Corp. will become the parent corporation of Intermediate Holdco and thereby indirectly own all of the NY Corporations. The individuals who are currently the NY Corporation Shareholders will become shareholders of Parent Corp. Intermediate Holdco will become the wholly owned subsidiary of Parent Corp and the NY Corporations will become the wholly owned subsidiaries of Intermediate Holdco.

Immediately following the signing of and exchange of shares under, the Share Exchange Agreement and the Merger Agreement, four (4) current shareholders of Parent Corp. will enter into a Stock Purchase Agreement with the Trust pursuant to which these shareholders will sell a portion of their shares in Parent Corp. to the Trust. The Trustee of the Trust will be GreatBanc Trust Company, an independent institutional trustee.

Parent Corp. has authorized 40 million shares of common stock and 10 million shares of preferred stock of which 30 million shares of common stock will have been issued after DOH approval is received. Of the non-issued shares of common stock, 3,600,000 shares will be reserved under a Stock Incentive Plan. This plan is separate from, and in addition to, the Employee Stock Ownership Plan. Under the Stock Incentive Plan, the Parent Corp. may, in the future, choose to issue a small percentage of stock to selected employees, consultants and directors of Parent Corp. No individual will receive more than 2% of Parent Corp's stock. None of the shares of preferred stock have been issued at this time.

The proposed stockholders of Personal Touch Holding Corp. comprise the following:

ESOT – 9,300,000 shares (31%)

Felix Glaubach – 5,505,000 shares (18.4%)

Robert Marx, Esq. – 5,505,000 shares (18.4%)

No other individuals or entities own more than 10% of the issued stock.

10,000,000 shares of common stock remain unissued although, as noted above, 3,600,000 shares of the non-issued common stock are reserved for possible future issuance under the Stock Incentive Plan.

10,000,000 shares of preferred stock remain unissued.

The proposed board members of Personal Touch Holding Corp. comprise the following individuals:

Robert Marx, Esq. – Director
Executive Vice President, Personal Touch Home Care

Affiliations:

- Personal Touch Home Care (1974-present)

David Slifkin, CPA – Director
Chief Operating Officer/Chief Financial Officer,
Personal Touch Home Care

Felix Glaubach – Director
President, Personal Touch Home Care

Affiliations:

- Personal Touch Home Care (1974-present)

John L Miscione – Director
Managing Director, Duff & Phelps, LLC

The sole Trustee of the Personal Touch ESOT is GreatBanc Trust Company.

The board members of GreatBanc Trust Company comprise the following individuals:

Elijah Vaughn Gordy – Chairman
Chief Executive Officer, GreatBanc Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Mark A, Elste – Director
Senior Executive Vice President, U.S. Fiduciary
Services, Inc.

Affiliations:

- Director/Officer of Trustee of People Care ESOP.

William S. Smith, Jr. – Director
Self-employed

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Michael Welgat, Esq. – Vice Chairman
Chief Executive Officer, U.S. Fiduciary Services, Inc.

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Marilyn H. Marchetti – Director
Senior Vice President, GreatBanc Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP

Mr. Stephen Hartman, Senior Vice President of GreatBanc Trust Company will also have direct authority over the Personal Touch ESOT, although he is not a member of the Board of Directors.

Stephen J. Hartman – Chairman
Senior Vice President, ESOP Services, GreatBanc
Trust Company

Affiliations:

- Director/Officer of Trustee of People Care ESOP, 100% shareholder, People Care Holdings, Inc.

PT Intermediate Holding, Inc. will become a wholly owned subsidiary of Personal Touch Holding Corp. upon DOH approval of this transaction. Personal Touch Holding Corp. proposes to own 1,000 shares of the authorized 10,000 shares of stock of PT Intermediate Holding, Inc. 9,000 shares will remain unissued.

The proposed board members of PT Intermediate Holding, Inc. comprise the following individuals:

Robert Marx, Esq. – Director
Previously Disclosed

Felix Glaubach – Director
Previously Disclosed

Personal Touch Home Care, Inc. is a wholly owned subsidiary of PT Intermediate Holding, Inc. PT Intermediate Holding, Inc. proposes to own 20 shares of the authorized 200 shares of stock of Personal Touch Home Care, Inc. 180 shares will remain unissued.

The proposed board members of Personal Touch Home Care, Inc. comprise the following individuals:

Robert Marx, Esq. – Director
Previously Disclosed

Felix Glaubach – Director
Previously Disclosed

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

A Certificate of Good Standing has been received for all attorneys.

A 10 year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

Florida

- Personal Touch Home Care of Florida – Fort Lauderdale
- Personal Touch Home Care of Florida – Del Ray Beach

Indiana

- Personal Touch Home Care of Indiana – Lawrenceburg

Massachusetts

- Personal Touch Home Care of Mass – W. Springfield
- Personal Touch Home Care Aides – Brighton
- Personal Touch Home Care Aides – N. Chelmsford
- Personal Touch Home Care of S.E. Mass – N. Dartmouth
- Personal Touch Home Aides – Beverly

Maryland

- Personal Touch Home Aides – Towson

Missouri

- Personal Touch Home Care of MO – Clayton

New Hampshire

- Personal Touch Home Aides of Greater Portsmouth – Auburn

New Jersey

- Personal Touch Home Care of NJ – Roselle Park
- Personal Touch Home Care of NJ – New Brunswick
- Personal Touch Home Care of NJ – Neptune
- Personal Touch Home Care of NJ – Bloomfield
- Personal Touch Home Care of NJ – Union City

New York

- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hempstead
- Personal Touch Home Care, Inc, d/b/a Personal Touch Home Care of LI – Hauppauge
- Personal Touch Home Care of Westchester, Inc – White Plains
- Personal Touch Home Care, Inc. – Jamaica
- Personal Touch Home Aides of New York
- PTS of Brooklyn LTHHCP (08/2007-Present)
- PTS of Westchester, Inc.
- PTS of Manhattan LTHHCP (12/2009-Present)

Ohio

- Personal Touch Home Care of Ohio – Independence
- Personal Touch Home Care of Ohio – Wooster
- Personal Touch Home Care of Ohio – Columbus
- Personal Touch Home Care of Ohio – Cincinnati
- Personal Touch Home Care of Ohio – Hamilton
- Personal Touch Home Care of Ohio – Easton
- Personal Touch Home Care of Ohio – Franklin

Pennsylvania

- Personal Touch Home Care of PA – Pittsburg
- Personal Touch Home Care of PA – Beaver
- Personal Touch Home Care of PA – New Castle
- Personal Touch Home Care of PA – Butler

Texas

- Houston Personal Touch Home Aides – San Antonio
- Personal Touch Home Care – Dallas

Virginia

- Personal Touch Home Care of VA – Norfolk
- Personal Care Aides of VA – Newport News
- Personal Care Aides of VA – Williamsburg
- Personal Care Aides of VA – Cheriton
- Personal Care Aides of VA – Chesapeake

Personal Touch Home Aides of New York was fined fourteen thousand dollars (\$14,000.00) pursuant to a stipulation and order dated May 29, 2007 for inspection findings of May 23, 2006 and July 11, 2006 for violations 10 NYCRR Sections 763.11(a) and (b) relating to the governing authority; 763.4(a) and (h) relating to policies and procedures of service delivery; 763.2(a) relating to patient rights; 763.6(b) relating to patient assessment and plan of care; and 763.5(a) relating to patient referral, acceptance and discharge.

The information provided by the Bureau of Quality Assurance and Licensure 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 out-of-state regulatory agencies in the states of Florida, Indiana, Massachusetts, Maryland, Missouri, New Hampshire, New Jersey, Ohio, Pennsylvania, Texas, and Virginia have indicated that Personal Touch Home Care, Inc. has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The applicant will continue to serve the residents of the following counties from an office located at 186-18 Hillside Avenue, Jamaica, New York 11432:

Bronx	Kings	New York	Queens
Richmond			

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

Nursing	Home Health Aide	Personal Care	Medical Social Services
Occupational Therapy	Physical Therapy	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: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Premier Home Health Care Services, Inc
Address: White Plains
County: Westchester
Structure: For-Profit Corporation
Application Number: 1914L

Description of Project:

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

Teleford Home Assistance, Inc. DBA Extended Care Health Services, is a licensed home care services agency, that was previously approved as a home care services agency by the Public Health Council at its May 22, 1987 meeting and subsequently licensed as 0044L001 and 0044L002 and 0044L004.

This application is for the purchase of the Riverhead and Hempstead LHCSA sites. Simultaneously application 1915L was submitted for the purchase of the White Plains LHCSA site.

The sole shareholder, Claudia Ruggiero, of Teleford Home Assistance, Inc. DBA Extended Care Health Services passed away in 1999. On October 23, 1999, the shares owned by Ms. Ruggiero were transferred as follows: 3.33 shares to her surviving spouse, Joseph Ruggiero, and 6.67 shares to the Claudia A. Ruggiero Family Trust, whose trustees are her surviving adult daughters, Claudia Taglich and Lenore Mahoney. On November 22, 2004, Joseph Ruggiero transferred his 3.33 shares as follows: 1.665 to each of his daughters, Claudia Taglich and Lenore Mahoney. An application was submitted for this change in ownership in July 2006 however the application was held due to an AG Investigation. The AG Investigation was settled in December 2009.

Teleford Home Assistance, Inc. DBA Extended Care Health Services is currently operating under a Management Agreement with Premier Home Health Care Services.

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

Arthur M. Schwabe – 100 Shares

Paul Schwabe – 100 Shares

The Board of Directors of Premier Home Health Care Services, Inc comprises the following individuals:

Arthur M. Schwabe – President and Chief Executive Officer
Chief Executive Officer, Premier Home Health Care Services, Inc.

Paul Schwabe – Vice President
President, Premier Personnel Services, Inc.

Affiliations:

- President and Chief Executive Officer, Premier Home Health Care Services, Inc. DBA First Aide Home Care
- Chief Executive Officer, Barele, Inc. DBA Omega Home Health Services
- Chief Executive Officer, At Home, LTD
- Chief Executive Officer, Premier Home

Affiliations:

- Vice President and Secretary/Treasurer, Premier Home Health Care Services, Inc. DBA First Aide Home Care
- Vice President, Barele, Inc. DBA Omega Home Health Services
- Vice President, At Home, LTD
- Vice President, Premier Home Health Care of Massachusetts, Inc.
- Vice President, Premier Home Health Care

- Health Care of Massachusetts, Inc.
- Chief Executive Officer, Premier Home Health Care of Ohio, Inc.
- Chief Executive Officer, Premier Home Health Care of Florida, Inc. DBA A Better Health Care
- Chief Executive Officer, Metropolitan Home Health Care of New Jersey
- Chief Executive Officer, Premier Home Health Care of Connecticut
- Chief Executive Officer, Premier Home Health Care Services, Inc. (North Carolina)
- of Ohio, Inc.
- Vice President, Premier Home Health Care of Florida, Inc. DBA A Better Health Care
- Vice President, Metropolitan Home Health Care of New Jersey
- Vice President, Premier Home Health Care of Connecticut
- Vice President, Premier Home Health Care Services, Inc. (North Carolina)

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

The applicant will continue to serve the residents of the following counties from an office located at 307 East Main Street, Riverhead, New York 11901:

Nassau Suffolk

The applicant will continue to serve the residents of the following counties from an office located at 50 Clinton Street, Suite 507, Hempstead, New York 11550:

Nassau Queens

The applicant proposes to provide the following health care services:

Nursing Home Health Aide Personal Care Homemaker
Housekeeper

Review of the Disclosure Information indicates that Premier Home Health Care Services, Inc. is affiliated with health care related facilities located in the following states: New York, New Jersey, Connecticut, Massachusetts, Ohio, North Carolina, South Carolina and Florida.

A 10 year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

- Priority Home Care, Inc
- Premier Home Health Care Services, Inc
- Premier Home Health Care Services, Inc. d/b/a First Aide Home Care Services
- Premier Home Health Care Services, Inc
- Barele, Inc. DBA Omega Home Health Services
- At Home, LTD
- Premier Home Health Care of Massachusetts, Inc.
- Premier Home Health Care of Ohio, Inc.
- Premier Home Health Care of Florida, Inc. DBA A Better Health Care
- Metropolitan Home Health Care of New Jersey
- Premier Home Health Care of Connecticut
- Premier Home Health Care Services, Inc. (North Carolina)

A review of the above listed facilities has determined that all of the facilities have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations. When code violations have occurred, it was determined that the operators investigated the circumstances surrounding the violation and took steps appropriate to

the gravity of the violation which a reasonably prudent operator would take to promptly correct and prevent the recurrence of the violation.

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: May 24, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Priority Home Care, Inc.
Address: White Plains
County: Westchester
Structure: For-Profit Corporation
Application Number: 1915L

Description of Project:

Priority Home 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.

Teleford Home Assistance, Inc. DBA Extended Care Health Services, is a licensed home care services agency, that was previously approved as a home care services agency by the Public Health Council at its May 22, 1987 meeting and subsequently licensed as 0044L001 and 0044L002 and 0044L004.

This application is for the purchase of the White Plains LHCSA site. Simultaneously application 1914L was submitted for the purchase of the Riverhead and Hempstead LHCSA sites.

The sole shareholder, Claudia Ruggiero, of Teleford Home Assistance, Inc. DBA Extended Care Health Services passed away in 1999. On October 23, 1999, the shares owned by Ms. Ruggiero were transferred as follows: 3.33 shares to her surviving spouse, Joseph Ruggiero, and 6.67 shares to the Claudia A. Ruggiero Family Trust, whose trustees are her surviving adult daughters, Claudia Taglich and Lenore Mahoney. On November 22, 2004, Joseph Ruggiero transferred his 3.33 shares as follows: 1.665 to each of his daughters, Claudia Taglich and Lenore Mahoney. An application was submitted for this change in ownership in July 2006 however the application was held due to an AG Investigation. The AG Investigation was settled in December 2009.

Teleford Home Assistance, Inc. DBA Extended Care Health Services is currently operating under Management Agreement with Priority Home Care, Inc.

There are 200 shares of stock authorized for Priority Home Care, Inc. of which all 200 shares have been issued. The sole Stockholder is Hallmark, Inc., a corporation that merged with and into Premier Home Health Care Services, Inc. Hallmark had authorized 2,500,000 shares of Voting Common Stock and another 2,500,000 shares in non-voting common stock. Following the merger, Premier Home Healthcare Services, as the surviving corporation, was issued 1,000,000 shares of Hallmark Voting Common Stock. The balance of the shares remain unissued. Hallmark is owned by Premier Home Health Care Services, Inc. with Premier holding all 1,000,000 of issued voting stock. There are no officers or directors of Hallmark, Inc.

The board of directors of Priority Home Care, Inc. comprises the following individuals:

Arthur M. Schwabe – President and Chief Executive Officer
Chief Executive Officer, Premier Home Health Care Services, Inc.

Paul Schwabe – Vice President
President, Premier Personnel Services, Inc.

Affiliations:

- President and Chief Executive Officer, Premier Home Health Care Services, Inc. DBA First Aide Home Care

Affiliations:

- Vice President and Secretary/Treasurer, Premier Home Health Care Services, Inc. DBA First Aide Home Care
- Vice President, Barele, Inc. DBA Omega Home Health Services

- Chief Executive Officer, Barele, Inc. DBA Omega Home Health Services
- Chief Executive Officer, At Home, LTD
- Chief Executive Officer, Premier Home Health Care of Massachusetts, Inc.
- Chief Executive Officer, Premier Home Health Care of Ohio, Inc.
- Chief Executive Officer, Premier Home Health Care of Florida, Inc. DBA A Better Health Care
- Chief Executive Officer, Metropolitan Home Health Care of New Jersey
- Chief Executive Officer, Premier Home Health Care of Connecticut
- Chief Executive Officer, Premier Home Health Care Services, Inc. (North Carolina)
- Vice President, At Home, LTD
- Vice President, Premier Home Health Care of Massachusetts, Inc.
- Vice President, Premier Home Health Care of Ohio, Inc.
- Vice President, Premier Home Health Care of Florida, Inc. DBA A Better Health Care
- Vice President, Metropolitan Home Health Care of New Jersey
- Vice President, Premier Home Health Care of Connecticut
- Vice President, Premier Home Health Care Services, Inc. (North Carolina)

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

Arthur M. Schwabe – 100 Shares

Paul Schwabe – 100 Shares

The Board of Directors of Premier Home Health Care Services, Inc comprises the following individuals:

Arthur M. Schwabe – President and Chief
Previously Disclosed

Paul Schwabe – Vice President
Previously Disclosed

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

The applicant will continue to serve the residents of the following counties from an office located at 445 Hamilton Avenue, 10th Floor, White Plains, New York 10601:

Bronx	Kings	New York	Queens
Richmond			

The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care	Homemaker
Housekeeper			

Review of the Disclosure Information indicates that Premier Home Health Care Services, Inc. is affiliated with health care related facilities located in the following states: New York, New Jersey, Connecticut, Massachusetts, Ohio, North Carolina, South Carolina and Florida.

A 10 year review of the operations of the following facilities was performed as part of this review (unless otherwise noted):

Priority Home Care, Inc
Premier Home Health Care Services, Inc
Premier Home Health Care Services, Inc. d/b/a First Aide Home Care Services
Premier Home Health Care Services, Inc
Barele, Inc. DBA Omega Home Health Services
At Home, LTD
Premier Home Health Care of Massachusetts, Inc.

Premier Home Health Care of Ohio, Inc.
Premier Home Health Care of Florida, Inc. DBA A Better Health Care
Metropolitan Home Health Care of New Jersey
Premier Home Health Care of Connecticut
Premier Home Health Care Services, Inc. (North Carolina)

A review of the above listed facilities has determined that all of the facilities have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations. When code violations have occurred, it was determined that the operators investigated the circumstances surrounding the violation and took steps appropriate to the gravity of the violation which a reasonably prudent operator would take to promptly correct and prevent the recurrence of the violation.

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: May 24, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Sterling Glen Care at Home, LLC
d/b/a Sterling Glen Care at Home
Address: Great Neck
County: Nassau
Structure: Limited Liability Company
Application Number: 1985-L

Description of Project:

Sterling Glen Care at Home, LLC d/b/a Sterling Glen Care at Home, a limited liability, requests approval for a proposed corporate restructuring of a home care services agency under Article 36 of the Public Health Law.

Sterling Glen Care at Home, LLC d/b/a. Sterling Glen Care at Home is a licensed home care services agency that was previously approved as a home care services agency by the Public Health Council at its September 8, 2008 meeting with a three (3) year limited life and was subsequently licensed as 1655L001.

Lazard Freres Real Estate Investors, LLC – and the three investment funds (LFSRI II – CADIM Alternative Partnership L.P., LF Strategic Reality Investors II, L.P. and LFSRI II Alternative Partnership L.P.) are the current parent entities of the existing owner of Sterling Glen Care at Home, LLC. These parent entities are seeking to transfer 36.62% of their current 100% ownership of Sterling Glen Care at Home, LLC (retaining 63.38%)

Sterling Glen Care at Home, LLC is a wholly owned subsidiary of Atria Senior Living, Inc.

Atria Senior Living, Inc. has authorized 2000 shares of stock, none of which have been issued at this time.

The proposed ownership of Atria Senior Living, Inc. will break down as follows:

Prometheus Senior Quarters, LLC – 63.68% Lazard Senior Housing Partners LP – 20.65%
LSHP Coinvestment Partnership I LP – 4.32% Senior Management – 11.35%

The proposed Board Members of Atria Senior Living, Inc. comprises the following individuals:

Matthew J. Lustig – Director

John A. Moore – Director

Douglas N. Wells – Director
Managing Principal, Lazard Alternative
Investments

Affiliations:

- Director, Atria Senior Living Group, LLC
(November 23, 2009 – Present)

Matthew J. Lustig and John A. Moore are exempt from character and competence review as individuals previously approved by the Public Health Council for this operator.

Prometheus Senior Quarters LLC comprises three Limited Partnerships; LFSRI II – CADIM Alternative Partnership L.P., LF Strategic Reality Investors II, L.P. and LFSRI II Alternative Partnership L.P. The

three Limited Partnerships comprises: limited partners who are passive and exercise no control or decision making powers with respect to the limited partnership.

In addition, Lazard Frères Real Estate Investors, LLC will not possess the ability to direct or cause the direction of the actions, management or policies of Sterling Glen Care at Home, LLC.

Lazard Frères Real Estate Investors, LLC has one managing member who is Lazard Alternative Investments, LLC

Lazard Frères Real Estate Investors, LLC is an entity that manages the investments for the three investment funds: LFSRI II – CADIM Alternative Partnership L.P., LF Strategic Reality Investors II, L.P. and LFSRI II Alternative Partnership L.P.

Lazard Senior Housing Partners LP is the general partner is Lazard Senior Housing Partners GP LLC.

Lazard Senior Housing Partners, LP and Lazard Senior Housing Partners, GP LLC will not possess the ability to direct or cause the direction of the actions, management of policies of Sterling Glen Care at Home, LLC.

Lazard Senior Housing Partners, LP is an investment fund comprised of numerous institutional investors – including public and private pension funds – that will have no say in the actions, management or policies of Sterling Glen Care at Home, LLC. Lazard Senior Housing Partners, GP LLC is the General Partner and is merely an entity that manages the investments of the investment fund and likewise will have no say in the actions, management or policies of Sterling Glen Care at Home, LLC. Lazard Senior Housing Partners GP, LLC has Profits Interest Only.

Lazard Senior Housing Partners GP, LLC has one managing member who is Lazard Alternative Investments, LLC.

Lazard Alternative Investments, LLC sole member is Lazard Alternative Investment Holdings, LLC.

All decisions concerning the action, management and policies of Sterling Glen Care at Home, LLC will be made by the directors of Atria Senior Living, Inc.

The applicant will continue to serve the residents of the following counties from an office located at 96 Cutter Mill Road, Great Neck, New York 11021:

Nassau Suffolk Westchester Queens

The applicant will continue 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.

Review of the Disclosure Information for Douglas N. Wells indicates that he is affiliated with over 120 health care related facilities located in the following 26 states: Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.

New Jersey

Atria Tinton Falls was fined two thousand five hundred dollars (\$2,500.00) in September 2009 as a result of deficiencies relating the facility failing to assure that a resident was medicated prior to showering according to physician's orders and plan of care.

The information provided by the Bureau of Quality Assurance and Licensure 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 out-of-state regulatory agencies in the states of Alabama, Arizona, California, Colorado, Georgia, Indiana, Kansas, Kentucky, Massachusetts, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, Tennessee, and Virginia have indicated that Atria Health Care facilities affiliated with this application have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

Enforcements Pending with the Department of Health, Division of Legal Affairs

The Bureau of Adult Care Facility Quality and Surveillance have indicated that the following facility was referred for enforcement:

Atria Northport was referred for enforcement for deficiencies cited during inspections performed on May 7, 2010 and May 26, 2010 for violations related to Supervision 487.7(d)(6)(ii)(b) and 487.7(d)(6)(iii)(a),(b). This enforcement action has not been resolved.

Contingencies

Satisfactory resolution of the ongoing enforcement action against Atria Northport and payment of any fines levied.

Satisfactory submission and review of required Schedule 2Ds for the out-of-state facilities/agencies from November 2009-Present.

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: May 16, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Living Life Home Care, Inc. dba Comfort Keepers # 512
Address: Peekskill
County: Westchester
Structure: For Profit Corporation
Application Number: 1960L

Description of Project:

Living Life Home Care, Inc. dba Comfort Keepers # 512, a business corporation, was approved by the Public Health Council on June 24, 2005 with a three year limited life. The purpose of this application is to request approval for permanent life as a home care services agency under Article 36 of the Public Health Law. Living Life Home Care, Inc. dba Comfort Keepers # 512 is a franchise, operating under a Franchise Agreement with CK Franchising, Inc. of Ohio.

The staff report approved by the Public Health Council stated that Comfort Keepers maintained an informal relationship with a reverse mortgage lender, Financial Freedom Senior Funding Corp. This agency was approved with a three year limited life approval because of the concern that within that relationship, the franchisee could offer its clients the option of reverse mortgages to pay for home care and then refer the clients to Financial Freedom.

Living Life Home Care, Inc. dba Comfort Keepers # 512 has confirmed that they have no relationship with Financial Freedom Senior Funding Corp. and have not entered into any transactions with this entity.

Living Life Home Care, Inc. dba Comfort Keepers # 512 continues to authorize 200 shares of stock which are owned as follows: Joy Traille, 180 shares and Winston Traille, 20 shares.

The Board of Directors of Living Life Home Care, Inc. dba Comfort Keepers # 512 continue to comprise the following individuals:

Joy Traille, President, Secretary, Treasurer Administrator, Comfort Keepers # 512	Winston Traille, Vice President Co-owner, Comfort Keepers # 512
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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.

The applicant proposes to continue serving the residents of the following counties from an office located at 1045 Park Street, Suite C, Peekskill, New York 10566:

Westchester	Dutchess	Bronx	Putnam
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The applicant proposes to continue providing the following health care services:

Nursing	Home Health Aide	Personal Care	Homemaker
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The information provided by the Bureau of Quality Assurance and Licensure indicates that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

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

The Department recommends permanent life approval upon satisfaction of any and all contingencies placed on the application by the Division of Legal Affairs.

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: May 23, 2011

Division of Home & Community Based Services
Character and Competence Staff Review

Name of Agency: Bryan Skilled Home Care, Inc.
Address: Massapequa Park
County: Nassau
Structure: For-Profit Corporation
Application Number: 1672L

Bryan Skilled Home Care, Inc., a business corporation, was conditionally approved to establish a Licensed Home Care Services Agency at the September 11, 2009 meeting of the Public Health Council and was subsequently licensed with license number 1817L001 effective April 26, 2010. This application was approved under the exemption to the LHCSA moratorium for agencies whose sole purpose would be providing home infusion services. A condition was placed on the approval that required the agency to obtain Public Health Council approval prior to adding any service other than Nursing or Medical Supplies, Equipment and Appliances.

The shareholders and Board of Directors of Bryan Skilled Home Care, Inc. comprise the following individuals:

Cathy Madden, RN, 11 shares President, Secretary	Kevin Madden, 10 shares Vice-President, Treasurer
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These individuals are exempt from a character and competence review as individuals previously approved by the Public Health Council for this operator.

This agency was initially approved to provide the following health care service:

Nursing

The Department inadvertently approved this agency to provide the additional health care services listed below effective September 7, 2010 without obtaining Public Health Council approval.

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

Therefore, the purpose of this application is to request council approval for this agency to provide these additional health care services effective September 7, 2010.

The applicant proposes to continue to serve the residents of the following counties from an office located at 125 Front Street, Suite 3, Massapequa Park, New York 11762:

Nassau Suffolk Queens

The information provided by the Bureau of Quality Assurance and Licensure has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The Department is recommending that the Public Health and Health Planning Council approve the additional services retroactive to September 7, 2010.

Contingency

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

Recommendation: Contingent Approval
Date: April 5, 2011